



MEMO

Date: September 25, 2012

TO: AmeriCorps State Programs

FROM: Cat Keen, Director of National Service Programs

CC: Janis Timmons, Director of Finance & Accounting

RE: National Criminal History Check Requirements

The Governor's Commission on Volunteerism & Community Service (Volunteer Florida) offers the following clarification regarding new requirements associated with AmeriCorps member background checks. Please review carefully as changes may affect your member and file management practices. In addition, adherence to this additional clarification is critical to avoid recaptured costs associated with member ineligibility. Please also refer to memo sent to AmeriCorps State Programs on April 11, 2011 as needed.

Background

Section 1614 of the Serve America Act adds another criminal history check requirement for individuals with recurring access to vulnerable populations to the Corporation's existing requirements. On April 21, 2011, the current two-part National Service Criminal History check became a three-part check requirement for individuals serving in, or working for, a program or project that allows for recurring access to a vulnerable population. As of April 21, 2011, newly enrolled or hired individuals with recurring access to vulnerable populations, must undergo:

- 1) A National Sex Offender Public Registry checks (NSOPR, also known as the NSOPW).
- 2) A statewide criminal history repository check of the state of residency and the state where the individual will work/serve (FBI checks will no longer substitute for state checks).
- 3) A fingerprint-based FBI criminal history repository check.

The Proposed Rule relating to national criminal history checks will be finalized in the near future. The Corporation for National and Community Service (CNCS) notes the 'gap period' of original guidance regarding heightened background check requirements (April 21, 2011) until the Proposed Rule goes into effect (TBD). CNCS offers the following guidance for that 'gap period':

- A covered individual hired by a program on, or after, April 21, 2011, who then departed the program before the effective date of the regulation (TBD), is not subject to the special rule for recurring access to vulnerable populations. During this time period, it is acceptable to have an NSOPR and either a state or FBI fingerprint based background check.

- An individual who does not have either a state or FBI background check clearance must be accompanied at all times until either the state or FBI background cleared check is secured.
- Accompaniment may cease when **either** state checks or an FBI check clears a covered individual as eligible to serve, until final regulations are in effect.

Requirements for all AmeriCorps State Programs starting the 2012-2013 contract year:

The following information is required for both individuals serving as national service members and all grant supported staff including those associated with the grant through federal or match funds.

National Sexual Offense Predator Registry (NSOPR)

- NSOPR clearance must be completed (conducted, cleared, documented with dated printout) **BEFORE** the start of service.
- Covered individuals cannot begin counting their service hours until this check is cleared.
- The result should also be annotated to document that any hits are not the same persons as the candidate. You must document the adjudication and resolve all hits before enrollment.
- Any service hours accrued prior to securing and documenting a cleared NSOPR are ineligible.

State Criminal History Check

- This check requires that you check both the *State of residence* and the *State of service*. The *State of residence* is determined at the time of application.
- These checks must be **initiated** no later than the start of service. ‘Initiated’ means one step beyond receiving approval to run the checks (National Criminal History Presentation, CNCS Grantee Meeting, September 19, 2012). Any service hours accrued prior to initiation are ineligible.
- Members and employees may start service while state checks are pending, but they **cannot** have access to vulnerable populations unless they are **accompanied** at all times by someone who has been cleared for access.

FBI Criminal History Check

- The check requires that you obtain a fingerprint based FBI check. For those who started on or after April 21, 2011 these checks are required and cannot be substituted in lieu of state check(s).
- The program must have source documentation (actual FBI results) or document an Alternative Search Procedure (ASP). Results of the criminal information records are the actual criminal history rap sheets, or an adjudicated result from the official state repository or an FBI authorized recipient.
- These checks must be **initiated** no later than the start of service. ‘Initiated’ means one step beyond receiving approval to run the checks (National Criminal History Presentation, CNCS Grantee Meeting, September 19, 2012). Any service hours accrued prior to initiation are ineligible.
- Members and employees may start service while FBI checks are pending, but they **cannot** have access to vulnerable populations unless they are **accompanied at** all times by someone who has been cleared for access.

Accompaniment

- Once the final regulations are in effect, accompaniment will be required until all components of the check are completed. Accompaniment can only be performed by someone who has been

cleared for access to vulnerable populations. An individual is accompanied when he or she is in the physical presence of a person cleared for access to a vulnerable population. A person cleared for access to a vulnerable population can be cleared as indicated by their profession (National Criminal History Presentation, CNCS Grantee Meeting, September 19, 2012).

Impact to AmeriCorps State Programs

It is essential to both secure and document all three elements of the national criminal history check. Adherence to the time periods for securing each (NSOPR, FBI, State) and the associated documentation are critical to avoid repayment of member costs.

Example: If an NSOPR is not secured, cleared and documented prior to a member serving, all associated hours of service are not eligible. The member costs associated with this time period will need to be recaptured. The hours associated with service during this period will be unallowable. Therefore, a member cannot count those hours toward service, leaving limited time within the year to recoup those hours. This could ultimately result in a member not completing his or her hours and not receiving an education award, through no fault of the member.

Action for AmeriCorps State Programs

- Send electronic documentation of all cleared NSOPR checks (adhering to the guidelines above) to your Program Consultant by **October 15th**. If your program has a start date after August/September, provide electronic documentation of NSOPR checks within 30 days of program startup.
- Send an electronic copy of the completed National Criminal History Check Status Form (Exhibit VIII, 12-13 contract package) within 60 days of your program start date, to the Volunteer Florida Finance Office and copy your Program Consultant.