

**Requirements for criminal records check.**

- (A) Except as otherwise provided in paragraph (H) of this rule, the chief administrator shall request that the superintendent conduct a criminal records check with respect to each applicant.
- (B) The chief administrator of an DCP may designate a representative such as a director of nursing, medical director, facility manager, or personnel officer to carry out the requirements of this rule on the chief administrator's behalf. The chief administrator shall remain ultimately responsible for complying with the requirements of this rule.
- (C) Residency requirement.
  - (1) If the applicant does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five year period the superintendent has requested information about the applicant from the FBI in a criminal records check, the chief administrator of the DCP shall request that the superintendent obtain information from the FBI as part of the criminal records check of the applicant.
  - (2) Even if the applicant presents proof of having been a resident of this state for the five-year period or proof of a FBI criminal records check as specified in paragraph (C)(1) of this rule, the DCP may request that the superintendent include information from the FBI in the criminal records check.
- (D) Investigation fee.
  - (1) A DCP shall pay to the BCII the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to that section.
  - (2) A DCP may charge an applicant a fee not exceeding the amount the DCP pays under paragraph (D)(1) of this rule. A DCP may collect a fee only if both of the following apply:
    - (a) The DCP notifies the person at the time of the initial application for employment of the amount of the fee and that, unless the fee is paid by the person, the person will not be considered for employment;
    - (b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the DCP for the fee it pays under paragraph (D)(1) of this rule.
- (E) Notification to the applicant. The chief administrator of the DCP shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult:

- (1) That the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment;
  - (2) If applicable, the information required under paragraph (D)(2)(a) of this rule; and
  - (3) Any fees authorized under division (C)(2) of section 109.572 of the Revised Code that are associated with obtaining fingerprint impressions.
- (F) Criminal records check forms. The chief administrator of a DCP required by this rule to request a criminal records check shall do all of the following:
- (1) Provide each applicant a copy of the form(s) prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet, or instructions for acquiring a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.
    - (a) An applicant who meets the residency requirement shall be provided a copy of the BCII "civilian identification" form for fingerprint impressions; in addition, if the DCP chooses to do so, the applicant may also be provided an FBI "applicant" fingerprint impression form.
    - (b) An applicant who does not meet the residency requirement, specified in paragraph (C) of this rule, shall be provided both the BCII and FBI fingerprint impression forms.
  - (2) Obtain the completed form(s) and fingerprint impression sheet(s) from the applicant.
  - (3) Forward the completed form(s) and fingerprint impression sheet(s) to the superintendent.
    - (a) The DCP shall submit the completed forms in the method prescribed by BCII.
    - (b) The DCP shall submit all applicable fees with completed forms or arrange for payment in a method prescribed by BCII prior to submitting forms for processing.
- (G) An applicant provided the forms and fingerprint impression sheets under paragraph (F)(1) of this rule, who fails to complete the forms or to provide fingerprint impressions, shall not be employed in any position for which a criminal records check is required by this rule.
- (H) Exception to criminal records check requirement. The DCP is not required to request that the superintendent conduct a criminal records check of an applicant if the applicant has been referred to the DCP by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults if the requirements of this paragraph or of paragraph (B) of rule 3701-13-04 of the Administrative Code are met:

- (1) The chief administrator receives from the employment service, or the applicant, a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral; and
  - (2) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in paragraph (A) of rule 3701-13-05 of the Administrative Code.
- (I) In addition to or in conjunction with any request that is required to be made under this rule with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a DCP may request that the superintendent conduct a criminal records check with respect to any individual who has applied on or after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult.

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Certification

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Date

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