

Chapter 110-04 WAC
BACKGROUND CHECK REQUIREMENTS FOR CHILDREN'S ADMINISTRATION
(Formerly: Chapter 388-06A WAC)

Last Update: 2/7/20

WAC

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WAC 110-04-0010 What is the purpose of this chapter? This chapter establishes rules for background checks conducted by the department of children, youth, and families (DCYF) for child welfare purposes and does not apply to background checks conducted for child care or early learning purposes as they are addressed in chapter 110-06 WAC. The department does background checks on individuals who are licensed, certified, contracted, employed in a group care facility, or authorized to care for or have unsupervised access to children. Background checks are conducted to find and evaluate any history of criminal convictions or civil adjudication proceedings, including those involving abuse, abandonment, financial exploitation, or neglect of a child or vulnerable adult.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0010, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0010, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0010, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0020 What definitions apply to WAC 110-04-0030 through 110-04-0180 of this chapter? The following definitions apply to WAC 110-04-0030 through 110-04-0180 of this chapter:

"Authorized" or **"authorization"** means not disqualified by the department to work in a group care facility or have unsupervised access to children. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

"Certification" means department or child placing agency (CPA) approval of a person, foster home, or facility that is exempt from licensing but meets the licensing requirements.

"Children" means a person who is one of the following:

- (a) Under eighteen years old;
- (b) Up to twenty-one years of age and pursuing a high school or equivalency course of study (GED/HSEC) or vocational program;
- (c) Up to twenty-one years of age and participating in the extended foster care program; or
- (d) Up to twenty-five years of age and under the custody of juvenile rehabilitation.

"Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"Department" or **"DCYF"** means the department of children, youth, and families.

"I" and **"you"** refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

"Licensing division" or **"LD"** means the licensing division within DCYF. LD licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"Licensor" means either:

(a) An LD employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies that provide or certify foster family homes or group care facilities under chapters 110-145, 110-147, and 110-148 WAC; or

(b) An employee of a child-placing agency who certifies or monitors foster homes supervised by the child-placing agency.

"Unsupervised" means will not or may not be in the presence of:

(a) The licensee, another employee or volunteer from the same business or organization as the applicant who has not been disqualified by the background check; or

(b) Another individual who has been previously approved by DCYF.

"We" refers to the department, including licensors and caseworkers.

"WSP" refers to the Washington state patrol.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0020, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0020, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0030 Why are background checks done? DCYF does background checks to help safeguard the health, safety, and well-being of children in out of home care. By doing background checks, the department reduces the risk of harm to children from individuals who have been convicted of certain crimes. The department's regulations require

the evaluation of your background to determine your character, suitability, and competence before you are issued a license, contract, certificate, authorization to be employed at a group care facility, or authorization to have unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0030, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0100, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0040 Who must have background checks? (1) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified, or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.020.

(2) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes, or facilities that provide care. The department requires background checks on all of the following people:

(a) A volunteer or intern with regular or unsupervised access to children.

(b) Any person who regularly has unsupervised access to a child. However, a background check is not required when a caregiver approves the unsupervised access for a normal childhood activity that lasts less than seventy-two hours, as stated in RCW 74.13.710.

(c) A relative other than a parent who may be caring for a child.

(d) A person who is at least sixteen years old and resides in a foster, relative, or other suitable person's home and is not a foster child.

(e) A person who is younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care. The department may require a background check for persons younger than sixteen years old in situations where it may be warranted to ensure the safety of children in out-of-home care.

(3) Any person employed at a group care facility, including those not directly working with children.

(4) Under RCW 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home, including the parents.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0040, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.030 and 43.43.832. WSR 18-12-101, § 388-06A-0110, filed 6/5/18, effective 7/6/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0110, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0050 Who is not affected by this chapter? This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial.

[WSR 18-14-078, recodified as § 110-04-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0120, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0060 Does the background check process apply to new and renewal licenses, certification, contracts, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children? For DCYF, these regulations apply to all applications for new and renewal licenses, contracts, certifications, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children that are processed by DCYF after the effective date of this chapter.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0060, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0060, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0130, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0070 What happens if I do not comply with the background check requirement? The department will deny, suspend, or revoke your license, contract, or certification, or disqualify you to care for children if you or someone on the premises of your home or facility having unsupervised access, or an employee at a group care facility does not comply with the department's requirement for a background check.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0070, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0140, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0080 What does the background check cover? (1) The department must review criminal convictions and pending charges based on identifying information provided by you. The background check may include, but is not limited to, the following information sources:

- (a) Washington state patrol.
- (b) Washington courts.
- (c) Department of corrections.
- (d) Department of health.
- (e) Civil adjudication proceedings.
- (f) Applicant's self-disclosure.
- (g) Out-of-state law enforcement and court records.

(2) Background checks conducted for DCYF also includes:

(a) A review of child protective services case files information or other applicable information system.

(b) Administrative hearing decisions related to any DSHS or DCYF license that has been revoked, suspended, or denied.

(3) In addition to the requirements in subsections (1) and (2) of this section, background checks conducted by DCYF for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other

suitable persons under chapter 13.34 RCW, include the following for each person over eighteen years of age residing in the home, all staff working in a group care facility, including those not directly working with children, and group care volunteers who provide direct care:

(a) Child abuse and neglect registries in each state a person has lived in, in the five years prior to conducting the background check.

(b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington.

(4) Except as required in subsection (3)(b) of this section, DCYF will conduct a fingerprint-based background check on any individual who has resided in the state less than three consecutive years before application.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0080, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0080, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0150, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0090 Who pays for the background check? (1) Children's administration (CA) pays the DSHS general administrative costs for background checks for foster home applicants, CA relative and other suitable caregivers, and CA adoptive home applicants.

(2) Children's administration pays the WSP and FBI fingerprint processing fees for foster home applicants, CA relative and other suitable caregivers, CA adoptive home applicants, and other adults associated with the home requiring background clearances under chapter 13.34 RCW.

(3) Children's administration does not pay WSP and FBI fingerprint processing fees or expenses for employees, contractors, or volunteers associated with facilities other than foster homes, adoptive homes proposed by the children's administration, or relative or other suitable caregiver homes.

[WSR 18-14-078, recodified as § 110-04-0090, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0160, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children? (1) There are convictions for certain crimes that will permanently prohibit you from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children. Those felony convictions are as follows:

(a) Child abuse and/or neglect;

(b) Spousal abuse;

(c) A crime against a child (including child pornography);

(d) A crime involving violence (including rape, sexual assault, or homicide but not including other physical assault or battery); or

(e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children in any home or facility.

- (2) If you are convicted of one of the crimes listed in WAC 110-04-0100 (1)(a) through (e), you will not be able to:
- (a) Receive a license to provide care to children;
 - (b) Be approved for adoption of a child;
 - (c) Be a contractor;
 - (d) Be employed by a licensed agency or contractor, if you will have unsupervised access to children;
 - (e) Be authorized to be employed at a group care facility even if you do not work directly with children;
 - (f) Volunteer or participate as an intern in a home or facility that offers care to children; or
 - (g) Provide any type of care to children, if the care is funded by the state.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0100, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0170, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children? The department must disqualify you from licensing, contracting, certification, authorization for employment at a group care facility, or authorization for unsupervised access to children if it has been less than five years from a conviction for the following crimes:

- (1) Any felony physical assault or battery offense not included in WAC 110-04-0100;
- (2) Any felony violation of the following drug-related crimes:
 - (a) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances (see chapter 69.52 RCW));
 - (b) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);
 - (c) The Precursor Drug Act (substances used in making controlled substances, see chapter 69.43 RCW);
 - (d) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or
 - (e) Unlawfully manufacturing, delivering, or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.
- (3) Any federal or out-of-state conviction for an offense that under the laws of Washington state would disqualify you for no less than five years from being authorized to be employed at a group care facility or having unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0110, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0110, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0180, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0120 If I have a conviction, may I ever be authorized to be employed at a group care facility or have unsupervised access to children? (1) In two situations, DCYF may find a person with convictions able to be authorized to be employed at a group care facility or have unsupervised access to children:

(a) If the conviction for any crime listed in WAC 110-04-0110 occurred more than five years ago; or

(b) If the conviction was for a crime other than those listed in WAC 110-04-0100 or 110-04-0110.

(2) In both of these situations, DCYF must review your background to determine your character, suitability, and competence to have unsupervised access to children. In this review, DCYF must consider the following factors:

(a) The amount of time that has passed since you were convicted;

(b) The seriousness of the crime that led to the conviction;

(c) The number and types of other convictions in your background;

(d) Your age at the time of conviction;

(e) Documentation indicating you have successfully completed all court-ordered programs and restitution;

(f) Your behavior since the conviction; and

(g) The vulnerability of those that would be under your care.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0120, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0120, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0190, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0130 Will I be disqualified if there are pending criminal charges on my background check? (1) The department will not license, contract, certify, authorize employment at a group care facility, or authorize unsupervised access to children to a person who has a criminal charge pending for a disqualifying crime:

(a) Described in the Adoption and Safe Families Act of 1997; or

(b) That relates directly to child safety, permanence, or well-being.

(2) You may reapply for a license, contract, certification, or approval to have unsupervised access to children by providing proof to the department that the charge against you has been dropped or that you were acquitted.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0130, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0130, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0200, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, or I have been pardoned for a crime? If you receive a pardon or a court of law acts to expunge or vacate a conviction on your record, the crime will not be considered a conviction for the purposes of licensing, contracting, certification, authorization for employment

at a group care facility, or authorization for unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0140, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0140, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0210, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0150 How will I know the status of the background check? (1) If you have been approved by the background check:

(a) The department will notify you and your prospective employer or supervisor if you have requested a contract, authorization to be employed at a group care facility, or approval for unsupervised access to children.

(b) The department will not directly notify you, and will instead continue the process for approving your application if you have requested a license or certification to care for children.

(2) If you have been disqualified by the background check:

(a) The department will notify you in writing and include any laws and rules that require disqualification;

(b) The department will also notify the care provider, the prospective employer, or the licensor; and

(c) You will not receive a license, contract, certification, or be authorized to be employed at a group care facility or have unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0150, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0150, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0220, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0160 What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization based on the results of the background check? (1) If you

are seeking a license, or employment with a home or facility licensed by the children's administration, you may request an administrative hearing to dispute a denial of authorization for unsupervised access to children (chapter 34.05 RCW). You cannot contest the conviction or negative action in the administrative hearing.

(2) Prospective volunteers or interns, contractors or their employees, or those seeking certification do not have the right to appeal the department's decision to deny authorization for unsupervised access to children.

(3) The employer or prospective employer cannot contest the department's decision on your behalf.

(4) The administrative hearing will take place before an administrative law judge employed by the office of administrative hearings (chapter 34.05 RCW).

[WSR 18-14-078, recodified as § 110-04-0160, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0230, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0170 Is the background check information released to my employer or prospective employer? (1) Children's administration will share with employers or approved care providers only that:

- (a) You are disqualified; or
- (b) You have not been disqualified by the background check.

(2) The department will follow laws related to the release of criminal history records (chapters 10.97 and 43.43 RCW) and public disclosure (chapter 42.17 RCW) when releasing any information.

[WSR 18-14-078, recodified as § 110-04-0170, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0240, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0180 May I request a copy of my criminal background check results? (1) The department will provide you a copy of your criminal background check results if you:

- (a) Make the request in writing to the department; and
- (b) Offer proof of identity, such as picture identification.

(2) A copy of your WSP criminal background check results may also be obtained from the Washington state patrol (chapter 10.97 RCW).

[WSR 18-14-078, recodified as § 110-04-0180, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0250, filed 1/15/15, effective 2/15/15.]