

**WAC 110-06-0050 Department action following completion of background inquiries.** (1) As part of the background check process the department will conduct the background check investigation and evaluation described in this section to determine whether subject individuals must be disqualified.

(2) Subject individuals must be disqualified when their background information includes conviction information or pending criminal charges described in WAC 110-06-0070(1) or conduct described in WAC 110-06-0070 (4) or (5).

(3) Subject to the requirements of WAC 110-06-0070(3) and after comparing subject individuals' background information with the secretary's list to determine whether to disqualify under WAC 110-06-0070(1), DCYF may conduct a character, suitability, and competence assessment of the subject individuals.

(4) Subject to the requirements of this chapter and after comparing subject individuals' background information with the secretary's list to determine whether to disqualify under WAC 110-06-0070(6), the department must conduct a character, suitability, and competence assessment of the subject individuals.

(5) For purposes of DCYF's investigation, evaluation, and determination, the following standards apply:

(a) A pending criminal charge that has been filed in the appropriate court, a deferred prosecution, or a deferred sentence must be given the same weight as a conviction.

(b) If the conviction or pending criminal charge has been renamed it is given the same weight as the previous named conviction or pending criminal charge.

(c) Convictions or pending criminal charges whose titles include the word "attempted," "conspiracy," or "solicitation" are given the same weight as those titles without the word "attempted," "conspiracy," or "solicitation."

(d) The term "conviction" may include convictions or dispositions for crimes committed as either an adult or juvenile.

(e) Convictions and pending criminal charges from other states or jurisdictions will be treated the same as a crime or pending criminal charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent, or if the foreign statute is broader than the Washington definition of the particular crime, the subject individuals' conduct, as evidenced by the indictment or information, will be analyzed to determine whether the conduct would have violated the comparable Washington statute.

(f) Crimes will not be considered convictions if they have been the subject of an expungement, pardon, annulment, certification of rehabilitation, vacated, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or the conviction has been vacated, the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(g) If the subject individuals' background information contains a CPI or CROP, DCYF must:

(i) Disqualify them if their background information contains a conviction or pending criminal charge that is listed in WAC 110-06-0120(2); or

(ii) Assess their character, suitability, and competence to determine whether they should be disqualified if the CPI or CROP does not apply to a:

(A) Pending criminal charge or conviction of a crime; or

(B) Negative action under WAC 110-06-0120 (3) or (4).

(h) A CROP does not apply to founded findings of child abuse or neglect. A child abuse or neglect finding must be considered by the department.

(i) A CROP and CPI must be included as part of the criminal history record reports, qualifying letters, assessments, or other reports.

(j) Subject individuals' background check authorizations may be suspended if they are the subject of a child protective services investigation. The length of the suspension may not exceed the following time period:

(i) As defined in RCW 26.44.020, the department makes an unfounded determination; or

(ii) The date a negative action determination is issued or the date a negative action becomes final, whichever is longer.

(k) If the department suspends a subject individual's background check authorization for the time period described in (j)(ii) of this subsection, the department may disqualify them under the requirements described in this chapter.

(l) Subject individuals who request a hearing or appeals a department decision to disqualify will not be authorized to care for or have unsupervised access to children receiving early learning services during the time period the hearing request or appeal is pending.

(6) If DCYF has reason to believe that additional information or reports are needed to determine whether subject individuals have the character, suitability, and competence to care for or have unsupervised access to children receiving early learning services, DCYF may request that they provide such reports or additional information. Subject individuals who do not provide the requested information may be disqualified.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-06-0050, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq.; 45 C.F.R. Part 98. WSR 19-01-111, § 110-06-0050, filed 12/18/18, effective 1/18/19. WSR 18-14-078, recodified as § 110-06-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.070 and chapter 43.215 RCW. WSR 15-24-040, § 170-06-0050, filed 11/20/15, effective 1/1/16. Statutory Authority: RCW 43.215.200, 43.215.205, 43.215.215 through 43.215.218, 43.43.830, 43.43.832, chapter 43.215 and 43.43 RCW, and 2011 c 295. WSR 12-12-040, § 170-06-0050, filed 5/30/12, effective 7/1/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. WSR 08-10-041, § 170-06-0050, filed 4/30/08, effective 5/31/08.]