Chapter 67-16 WAC
DEPARTMENT—GENERAL ADMINISTRATION

WAC

67-16-010 Physical and informational accessibility.
67-16-020 Purpose and definition.
67-16-030 Background check process for contractors, vendors, and service providers.
67-16-040 Department of services for the blind—Background check requirements for employees, applicants, volunteers and student interns.

WAC 67-16-010 Physical and informational accessibility. (1) No otherwise qualified handicapped individual shall, solely by reason of handicap, be excluded from participation, be denied benefits of, or be subjected to discrimination under any department-provided program or activity.

(2) No handicapped person will be subjected to discrimination because department-provided facilities are inaccessible to or unusable by handicapped persons. Any construction or alteration to any present or future locations or facility, on behalf of or for the use of the department, will be readily accessible to and useable by handicapped persons.

(3) No person shall be denied access to department information, records or materials solely on the basis of his/her inability to utilize such information, records or materials in a customary manner.

[Statutory Authority: 1983 c 194 § 18. 84-01-041 (Order 83-07), § 67-16-010, filed 12/15/83. Formerly WAC 67-15-010.]

WAC 67-16-020 Purpose and definition. The authority for conducting background checks on contractors and service providers is established in chapter 74.18 RCW. The purpose for background checks is to ensure the suitability, character and competence of contractors and service providers to work with clients with a visual disability defined in WAC 67-75-040 (3)(a).

[Statutory Authority: Chapter 74.18 RCW. 04-12-029, § 67-16-020, filed 5/26/04, effective 7/1/04.]

WAC 67-16-030 Background check process for contractors, vendors, and service providers. (1) The director of the department of services for the blind (DSB) shall investigate the conviction records, pending charges and disciplinary board final decisions for contractors, vendors, and service providers who will or may have unsupervised access to DSB clients.

(2) The investigation shall consist of a background check as allowed under the Washington State Criminal Records Privacy Act, RCW 10.97.050; the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the Federal Bureau of Investigation. The background check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

(3) The director may waive the requirement for a background check if the contractor, vendor, or service provider has been cleared in a background check within the previous two years.

(4) When necessary, the director may engage a service provider, vendor, or contractor on a conditional basis, pending completion of the background check.

(5) The investigation shall include an examination of state and national criminal identification data. The director shall use the information solely for the purpose of determining the character, suitability and competence of the individual contractor or service provider to work with the department of services for the blind clients.

(6) The director shall provide the results of the background check in writing to the contractor, vendor, or service provider.

(7) The office of the director shall maintain confidential records of all background check information. Such information shall be limited to only those individuals processing the information within the department.

(8) The fingerprint criminal history records checks will be at the expense of the contractor or service provider.

(9) Current contractors, vendors, or service providers for whom disqualifying crimes are discovered in the background check process will be notified in writing. The written notification shall include notice of termination of the contract or service provider agreement and give the individual the right to request a review by the director of the department of services for the blind.

[Statutory Authority: RCW 74.18.123. 10-19-081, § 67-16-030, filed 9/16/10, effective 10/17/10. Statutory Authority: Chapter 74.18 RCW. 04-12-029, § 67-16-030, filed 5/26/04, effective 7/1/04.]

WAC 67-16-040 Department of services for the blind—Background check requirements for employees, applicants, volunteers and student interns. (1) The executive director of the department of services for the blind shall conduct background checks on all employees in covered positions and applicants under final consideration for a covered position. A covered position is one in which a person will or may have unsupervised access to vulnerable clients or potential clients with vision disability. These clients or potential clients may also have other disabilities, such as developmental disabilities or mental health disabilities. Employees and applicants shall authorize the executive director of the department of services for the blind to conduct a background check.

(2) The requirement for background checks shall include the following:

(a) Current employees as of July 1, 2004.

(b) Any employee seeking a covered position because of a reduction in force, reallocation, transfer, promotion or demotion.

(c) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis under subsection (7)(b) of this section.

(3) A background check will be conducted on the final preferred candidate prior to appointment.

(4) The executive director of the department of services for the blind shall use the results of a background check solely to determine the character, competence and suitability of a person for a covered position. The background check information shall consist of:

(a) A fingerprint check using a complete Washington State criminal identification fingerprint card.

(b) Conviction records, pending charges, and disciplinary board final decisions (if applicable).

(c) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decisions;

(v) The nature and number of previous offenses; and

(vi) The relationship between the nature of the conviction, pending charge, or disciplinary board final decision and the duties of the employee or applicant.

(5) A permanent employee with a background check disqualification may voluntarily resign, or be subject to disciplinary action in accordance with WAC 357-40-010.

(6) Interim measures that may be used while the executive director explores availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time.

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave.

When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(7) The executive director of the department of services for the blind shall:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(c) Develop policies and procedures pertaining to background checks;

(d) Provide the employee/applicant with the results of the background check in writing;

(e) Notify employees of their promotional register rights when they have been separated from their position, either voluntarily or involuntarily due to a background disqualification.

(8) Failure to authorize the executive director of the department of services for the blind to conduct a background check disqualifies an employee or applicant from consideration for any covered position including an employee's current covered position.

(9) An applicant for a covered position who is denied employment due to a disqualifying finding, shall be given the right to request a review of the decision by the executive director.

Requests for review must be in writing and received by the executive director within fifteen calendar days of the postmark date of the notification or date of hand-delivery.

(10) Permanent nonrepresented employees may appeal to the personnel resources board in accordance with RCW 41.06.170 and rules promulgated thereunder including WAC 357-52-010. Represented employees may appeal to the Washington state federation of state employees under the terms of the collective bargaining agreement.

(11) Nothing in this rule shall limit the department of services for the blind executive director's use of other authorities to conduct background checks.

(12) Information pertaining to background checks is confidential and shall be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee. Access to background check information shall be limited to only those individuals processing the information for the department. Misuse of background check information is a criminal offense and may result in prosecution and/or disciplinary action as provided under WAC 357-40-010.

(13) The department of services for the blind will pay the costs associated with the background checks for current employees, applicants, volunteers, and student interns.

[Statutory Authority: RCW 74.18.123. 10-19-081, § 67-16-040, filed 9/16/10, effective 10/17/10. Statutory Authority: Chapter 74.18 RCW. 04-12-029, § 67-16-040, filed 5/26/04, effective 7/1/04.]