

WAC 110-06-0115 Department decision to vacate disqualification decisions. (1) Subject to the requirements contained in this chapter, the department may not reconsider whether earlier decisions to disqualify subject individuals will be vacated unless the department determines a change has occurred in the circumstances of a subject individual between the date of disqualification and the date the request to vacate the disqualification is made. Subject to the requirements contained in this chapter, to receive a background check authorization under this section, the department must review the subject individual's background and assess their character, suitability, and competence to determine whether the change in circumstances demonstrates the subject individual should receive an authorization.

(2) To determine whether there has been a change in circumstances, the department must consider the factors described in subsection (3) of this section. A change in circumstances includes, but is not limited to, the following:

(a) Two years have passed since the issuance of a disqualification.

(b) The issuance of a valid CROP that pertains to a crime that was the sole basis of the subject individual's disqualification.

(c) If the sole basis for the disqualification was for a pending criminal charge or conviction that has been dismissed, vacated, the subject of a pardon, annulment, or other equivalent procedure.

(d) The issuance of a valid CPI that pertains to a negative action that was the sole basis of the subject individual's disqualification. The CPI must pertain to conduct by the subject individual that resulted in a founded finding of negligent treatment or maltreatment, physical abuse, or a dependency finding that was the result of a finding that the subject individual abused or neglected the child under RCW 13.34.030 (6) (b).

(e) If the sole basis for the disqualification was a negative action that has been dismissed, vacated, annulled, or other equivalent procedure.

(3) Before subject individuals are issued a background check authorization under this section, the department must review their background and assess their character, suitability, and competence. In this assessment, the department considers the following factors related to the subject individual's background:

(a) Whether the subject individual has a pending criminal charge or conviction on the secretary's list described in WAC 110-06-0120(2);

(b) Whether the subject individual has a background containing any of the information described in the secretary's list in WAC 110-06-0120 (3) or (4);

(c) The amount of time that has passed since the pending criminal charge, conviction, or negative action information that is the sole basis, or partial basis, of the subject individual's prior disqualification;

(d) The seriousness of the crime or subject individual's actions that led to the pending criminal charge, conviction, or negative action that was the sole basis, or partial basis, of the subject individual's prior disqualification;

(e) The number, types, and age of other pending criminal charges, conviction information, or negative actions in the subject individual's background;

(f) The subject individual's age at the time of the negative action determination, pending criminal charge or conviction that is the

sole basis, or partial basis, of the subject individual's prior disqualification;

(g) The completion of services or other evidence of rehabilitation since the pending criminal charge, conviction, or negative action that is the sole basis, or partial basis of the subject individual's prior disqualification;

(h) The subject individual's role or purpose in delivering early learning services;

(i) The length and consistency of employment history between the date the disqualification was issued and the date the subject individual asks the department to vacate the disqualification decision;

(j) The employment or character references and any other information regarding the subject individual's fitness to be authorized.

(4) If a CROP or CPI has been issued for a crime or negative action described in the secretary's list in WAC 110-06-0120 (3) or (4) that was the sole basis for a disqualification, the department must vacate the disqualification. If a disqualification is vacated for any reason under this section, the department must conduct a new background check investigation and evaluation as described in this chapter.

(5) As part of the background check process under this section, the department will conduct the background check investigation, evaluation, and assessment as described in this chapter.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-06-0115, 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, § 110-06-0115, filed 12/18/18, effective 1/18/19. WSR 18-14-078, recodified as § 110-06-0115, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.070 and chapter 43.215 RCW. WSR 15-24-040, § 170-06-0115, 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, § 170-06-0115, filed 5/30/12, effective 7/1/12.]