

Process

Title:	Background Checks on Non-Institution ODHS OHA Employees
Related to:	ODHS OHA-060-010
Effective date:	03/07/2022

Purpose

This document provides a step-by-step explanation for the process of conducting background checks by the Background Check Unit (BCU) for ODHS and OHA employees who are not working in or applying for position in ODHS|OHA institutions (see Definitions) and acting on the results of the final outcome. This procedure is used in conjunction with ODHS|OHA-060-010-02, Weigh Tests and Final Fitness Determinations on Non-Institution ODHS|OHA Employees.

This process applies to new hire, promotion, demotion, direct appointment, re-employment, job rotation, work out of class, developmental assignment, transfer, temporary hire, agency temporary hire, temporary to permanent, rotation to permanent, work out of class to permanent, and job duty changes. This process also applies to new criminal or abuse history disclosure, when BCU or the Office of Human Resources (HR) has reason to believe an individual has new or undisclosed criminal or abuse history, or the subject has had a break in service.

It does not apply to redeployment in an emergency situation as defined by the Director of HR, or lateral transfers within the same position title and classification with no job duty changes.

Definitions

The following terms are used in this document:

- a. "BCU HR Team" means a member of the BCU tasked with evaluating a criminal records check and abuse check when either or both are considered, and other criteria as may be required to provide a fitness determination.
- b. "Fitness determination" means the evaluation of a criminal records check and abuse check when either or both are considered, and decision whether a subject individual (SI) is fit to hold a position. Fitness determination includes:
 - A. The decision regarding SI disclosures, an Oregon criminal records check, and preliminary review (a preliminary fitness determination); or,
 - B. The decision regarding SI disclosures, completed criminal and abuse records check when either or both are considered including the gathering of other information as necessary, and a final fitness determination by the BCU HR Team.
- c. "Institution" means a state-operated or OHA-contracted secure residential treatment facility, a residential training home within the Stabilization and Crisis Unit (SACU), or the Oregon State Hospital (OSH).

- d. "Interview Coordinator" means the point of contact for employment candidates during the interview process. The interview coordinator does not need to be in management service. This person cannot be the hiring manager or a participant on the interview panel.
- e. "Qualified Entity Designee (QED)" means a person trained and certified to submit the selected candidate's background check to the Background Check Unit through its online background check portal, the Oregon Criminal History & Abuse Records Database System (ORCHARDS). The individual must be a QED for background check purposes. The individual shall not be the hiring manager or a participant on the interview panel.
- f. "Subject Individual (SI)" means an individual regarding whom the authorized agency, districts and qualified entities may conduct a background check and from whom ODHS|OHA may require fingerprints for the purpose of conducting a national criminal records check pursuant to ORS 181A.190, 181A.195, 181A.200, 181A.215, 267.237, 409.027, 413.036 and any required enabling legislation or executive order. Any individual going through a background check is considered an SI.
- g. "Weighing test" means a process carried out by the Background Check Unit in which available information is considered to make a fitness determination.

Process steps

1. Background checks begin during the hiring process or due to new criminal or abuse history disclosure, when BCU or HR has a reason to believe an individual has new or undisclosed criminal or abuse history, or the subject has a break in service.
 - a. For background checks during the hiring process continue to step 2.
 - b. For other background checks, HR notifies the subject's manager or the QED of the need for a new background check. The process begins at step 5.
2. On or around the time of the final interview of a candidate for employment:
 - a. The interview coordinator:
 - A. Verifies the government-issued photo identification of each candidate.
 - B. Completes the *Applicant: Verify Identity* section of the BCU Background Check Checklist.
 - C. Instructs the candidate to complete the SI Information section of the checklist.
 - b. The QED:
 - A. Completes the *Pre-Employment Information* section of the BCU Background Check Checklist.
 - B. Acquires and secures information from the candidate until the hiring process has been completed.
3. The hiring manager makes an offer of employment to the selected candidate contingent upon the outcome of a completed BCU background check without setting a start date.
4. If the candidate accepts the offer of employment, the QED accesses the BCU Background Check Checklist for the candidate.
 - a. If the selected candidate's background check is not approved or the candidate does not accept the position, the position is then offered to the next candidate.
 - b. Step 5 and following steps will continue for subsequent candidates as needed.
5. The QED initiates and monitors the progress of the background check in ORCHARDS.
6. ORCHARDS automatically sends an email to the SI with instructions for authorization and disclosure related to the background check.

- a. The SI provides authorization and disclosure within 21 days of initiation for the background check submission to be complete.
 - b. The QED monitors the submission of the background check and communicates with the SI regarding the deadline for the authorization and disclosure as needed.
 - c. If an SI fails to complete the authorization and disclosure within 21 days, the application is closed, and the SI is no longer eligible for the position.
7. The [BCU HR Team](#) requests additional information from the SI during the background check process, as necessary.
 - a. The SI is solely responsible for completing any information requests from BCU.
 - b. The QED monitors the background check process and reminds the SI of any deadlines for additional information.
 8. BCU determines if fingerprints and a national background check are required based on access, use, and control.
 - a. If the SI would have access to or use federal tax information (FTI), a fingerprint-based criminal records check in addition to the Oregon criminal history check and abuse check are required.
 - A. BCU notifies the QED through ORCHARDS of the need for fingerprint capture and instructions for the SI.
 - B. The QED notifies the SI with written fingerprint capture information and instructions.
 - C. The SI completes the fingerprint capture within 21 days from the date listed on the notification to the SI.
 - D. If the SI does not submit the fingerprint capture within 21 days, BCU closes the background check and the SI is no longer eligible for the position. The QED ensures removal of the candidate from the position.
 - E. When BCU receives the results of the fingerprint-based criminal records check, BCU checks local law enforcement agencies where the SI has lived, worked, or attended school within the past 5 years, and if applicable, checks appropriate local law enforcement agencies for any identified arrests.
 - b. If the position is under federal mandate of the Social Security Administration, fingerprints and a national background check are required.
 - A. BCU notifies the QED through ORCHARDS of the need for fingerprint capture and instructions for the SI.
 - B. The QED notifies the SI with written fingerprint capture information and instructions.
 - C. The SI completes the fingerprint capture within 21 days from the date listed on the notification to the SI.
 - D. If the SI does not submit the fingerprint capture within 21 days, BCU closes the background check and the SI is no longer eligible for the position. The QED ensures removal of the candidate from the position.
 - c. If the SI would have unescorted access to or use of criminal justice information (CJI), a fingerprint-based Criminal Justice Information Services (CJIS) clearance check is required in addition to an employment background check, and the hiring manager completes the *BCU CJIS Clearance Request Process*.
 - d. If any of the criteria in Oregon Administrative Rules (OAR) are met (see OAR 407-007-0030(8)(a)), fingerprints and a national background check are required.
 - A. BCU notifies the QED through ORCHARDS of the need for fingerprint capture and instructions for the SI.
 - B. The QED notifies the SI with written fingerprint capture information and instructions.

- C. The SI completes the fingerprint capture within 21 days from the date listed on the notification to the SI.
 - D. If the SI does not submit the fingerprint capture within 21 days, BCU closes the background check and the SI is no longer eligible for the position. The QED ensures removal of the candidate from the position.
9. The hiring manager may request preliminary hire at any time between the submission of the background check into ORCHARDS (by the QED and SI) and the final fitness determination.
- a. The QED submits an email to BCU.HRBackgroundChecks@dhsosha.state.or.us requesting preliminary hire and including the SI's full name, DOB, and application number.
 - b. The [BCU HR Team](#) performs a preliminary fitness determination in accordance with OAR 407-007-0065. BCU shall not grant preliminary hire for the following:
 - A. An SI who would have access to CJI before the completion of the final fitness determination; or
 - B. An SI who would have access to FTI before the completion of the final fitness determination.
 - c. Once the [BCU HR Team](#) makes its determination on preliminary hire, BCU notifies the QED via e-mail that preliminary hire has been reviewed and the determination can be found under the documents tab of the SI's profile in ORCHARDS.
 - d. A start date may be set contingent upon the outcome of the final fitness determination.
 - e. While working on a preliminary basis, the QED and hiring manager ensures the SI must be actively supervised per OAR 407-007-0065(3). Driving on state business is not allowed at this time.
10. If there is an urgent need to hire the SI, the hiring manager may request an expedited fitness determination at any time between the full submission of the background check and the final fitness determination.
- a. The QED submits an email to the [BCU HR Team](#) requesting expedited fitness determination and including the SI's full name, DOB, and application number.
 - b. The [BCU HR Team](#) determines if an expedited fitness determination is possible. BCU shall not complete an expedited fitness determination for positions requiring:
 - A. Criminal Justice Information Services (CJIS) security clearance if CJIS clearance has not yet been received; or
 - B. Fingerprints and a national background check if fingerprints results have not yet been received from the Oregon State Police and FBI.
 - c. If BCU determines that an expedited fitness determination is possible, BCU proceeds to step 11 if the position requires driving. If the position does not require driving, BCU proceeds to step 12.
11. If driving on state business is a requirement for the position, the [BCU HR Team](#) completes a Motor Vehicle Risk Assessment.
- a. If the outcome of the Motor Vehicle Risk Assessment is adverse, the SI is not eligible for the position. The QED ensures removal of the candidate from the position.
 - b. If the outcome of the Motor Vehicle Risk Assessment is positive, the SI is eligible for the position.
12. The [BCU HR Team](#) performs a background check including criminal history and other factors per OAR and policy:
- a. If no potentially disqualifying convictions or conditions are found, no weighing test is required, including for an SI who would have access to or use of FTI or who would be working under the

federal mandate of the Social Security Administration. The final fitness determination proceeds as follows:

- A. The [BCU HR Team](#) approves the SI in ORCHARDS. This creates a clearance letter in ORCHARDS and an email notification is automatically sent to the QED.
 - B. The QED forwards a copy of the clearance letter to the Hiring Manager and the SI.
 - C. If the SI would have access to or use federal tax information (FTI), prior to granting access or use, the I-9 and E-Verify shall be completed and the E-Verify result authorizes employment.
 - D. HR works with the hiring manager if E-Verify discrepancies are found.
 - E. An SI who would have access to or use of FTI shall have a new background check completed every 5 years.
- b. If potentially disqualifying convictions or conditions are found, the [BCU HR Team](#) follows instructions for completing a weigh test and final fitness determination as provided in ODHS|OHA-060-010-02, Weigh Tests and Final Fitness Determinations on Non-Institution ODHS|OHA Employees.

References

[ORS 181A.190](#)

[ORS 181A.195](#)

[ORS 181A.200](#)

[ORS 181A.215](#)

[ORS 267.237](#)

[ORS 409.027](#)

[ORS 413.036](#)

[OAR 407-007-0000 to 407-007-0100](#)

[OAR 407-007-0400 to 407-007-0460](#)

[OAR 943-007-0001 to 943-007-0501](#)

Forms referenced

BCU Background Check Checklist (available in ORCHARDS, Help Section)

Related policies

ODHS|OHS-060-010 Background checks

ODHS|OHA-060-010-02, Weigh Tests and Final Fitness Determinations on Non-Institution

ODHS|OHA Employees

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