

Compliance Responsibilities: National Service Criminal History Checks

National Service Criminal History

overview

Two-part Checks are Required Every Time

- **National Sex Offender Public Registry**

- Also called the National Sex Offender Public Website or “NSOPR” or “NSOPRW”

and

- **Statewide Criminal History**

- For the state where the individual resides at the time of application, *and*
- The state where he or she will serve or be employed

National Sex Offender Public Registry

- No charge to search on web
- Name based
- Must use nationwide search, not “advanced”
- Must retain original results (printout)
- Must resolve “hits” before enrollment
- May perform search multiple times if one or more states not functional (risk mitigation)

Statewide Criminal History

- Cost will vary significantly between states
- Check state of residence + where serving
- NYS Div of Criminal Justice Services or NYS Office of Court Administration
- Must use the Corporation's designated sources
- Must retain original results
- Disqualifying offenses: Murder or any that should result in registration on state sex offender list

When are the checks performed?

- **NSOPR**

- No earlier than application
- No later than enrollment

- **Statewide criminal history**

- Initiate no later than enrollment
- Must accompany candidate while pending if they are to be in contact with vulnerable population

- **Grandfathered**

- Individuals holding covered positions as of 09/30/09 (with no exposure to vulnerable populations)

Must Follow 10 Prescribed Procedures

1. Verify identity
2. Obtain prior written authorization
3. Document understanding of contingent selection
4. Provide opportunity for review
5. Safeguard information
6. Accompany individuals with pending statewide checks
7. Document identity was verified/ checks performed
8. Maintain results of the checks
9. Document that selection was based on results
10. Program pays for the costs of the check

Questions?
Discussion?

National Service Criminal History

compliance & risk

Why is Compliance Important from an organizational Perspective?

- Non-compliance = ineligible members & employees
- Ineligible individuals = questioned costs
- Questioned costs = potential debt / payback of grant and Trust awards

What Compliance Areas Carry the Greatest Risk of Non-Compliance?

- **Effective dates** – Did you start performing national service criminal history checks when they should have?
 - November 23, 2007 if program had recurring access to a vulnerable population; or
 - October 1, 2009, all others.

Compliance risks ...

- **Statewide Criminal History Repositories** – Are you using the designated statewide criminal history repository to obtain the information?
- **New York – NYS Criminal History Check repository:** NYS Division of Criminal Justice Services and the NYS Unified Court System
- **Commercial Vendors** – Are you using a commercial vendor that performs compliant checks? (Highly unlikely)

Compliance risks ...

- **NSOPR Before Enrollment** – Are you only enrolling and only employing individuals who have cleared a national sex offender public registry check?
- **Statewide Criminal History Before Independent Contact with Vulnerable Populations** – Does the program have policies to supervise Members with pending checks?

Compliance risks...

- **Records Retention** – Are you obtaining, establishing and retaining all required records, including the criminal history report from the state repository?

Compliance risks...

- **Alternate Search Protocol (Procedural)** – If you are doing something different with respect to the 10 required procedures, have you communicated with your Program Administrator and obtained an ASP from the Corporation?

Compliance risks...

- **Alternate Search Protocol (Sources of Records)**– If you are using any source other than the statewide criminal history repositories designated by the Corporation, have you worked with your Program Administrator to obtain an ASP?
- Applies to the use of:
 - School systems
 - Commercial vendors
 - Screening authorities (other than National Center for Missing and Exploited Children (no approval needed))

What is a prime grantee's role regarding Alternate Search Protocols?

- As a grantee of New Yorkers Volunteer you must first work with your Program Administrator
- Programs operating under both state commissions and national directs will be processed under their national direct relationship first
- Decisions made by CNCS are sent to New Yorkers Volunteer

What should you be doing now?

- Review FAQs and regulations
- Discuss issues with your Program Administrator
- Review member and employee files
- Looking for ASP situations and talk to your Program Administrator where no ASP has been approved
- Conferencing with your Program Administrator to address any unique challenges you face
- Using tools provided on the Resource Center

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the future:
Upcoming Actions/Requirements

Upcoming Action Items

- **FBI / Corporation report** on national service criminal history checks
- **Regulations.** The Corporation will be issuing new rules to support the new law, including addressing burdensome and costly parameters
- **April 21, 2011:** Programs in contact with vulnerable population must obtain **both** the **statewide criminal history repository** check and **an FBI national criminal history check**

CNCS Support Efforts Underway

- They are working with the FBI to see if there is a way for programs to go directly to the FBI for criminal history information
- There will be regular updates to the FAQs
- They are joining the FBI's compact association of state criminal history repositories to educate the states, and negotiate solutions

Open Discussion

- Questions
- Concerns