

## Criminal Background Check Procedure

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### **Purpose:**

All prospective OESD 114 Early Learning employees, substitutes and volunteers shall undergo a criminal history background check prior to hire or volunteering. The background check includes a Washington State Patrol clearance based on name and date of birth (WATCH). Head Start/ECEAP substitutes hired into Head Start/ECEAP positions are subject to these procedures prior to being hired as a regular employee.

All prospective Head Start/ECEAP employees, substitutes and substitutes hired into Head Start/ECEAP positions who may have unsupervised access to children shall also undergo a fingerprint background check by the Washington State Patrol (WSP) and Federal Bureau of Investigation (FBI) prior to hire.

All prospective Head Start/ECEAP employees, substitutes and substitutes hired into Head Start/ECEAP positions in a center licensed by the Department of Early Learning (DEL) are also required to comply with additional background check requirements – Department of Early Learning Portable Background Check

### **Procedure:**

All prospective employees, contractors, substitutes hired into Head Start/ECEAP positions and volunteers.

Required to submit to a name and date of birth background check (WATCH) provided by the Washington State Patrol prior to their first day of employment or volunteering (this typically occurs during the interview process). This online background check will be conducted by the OESD 114 Human Resources Department

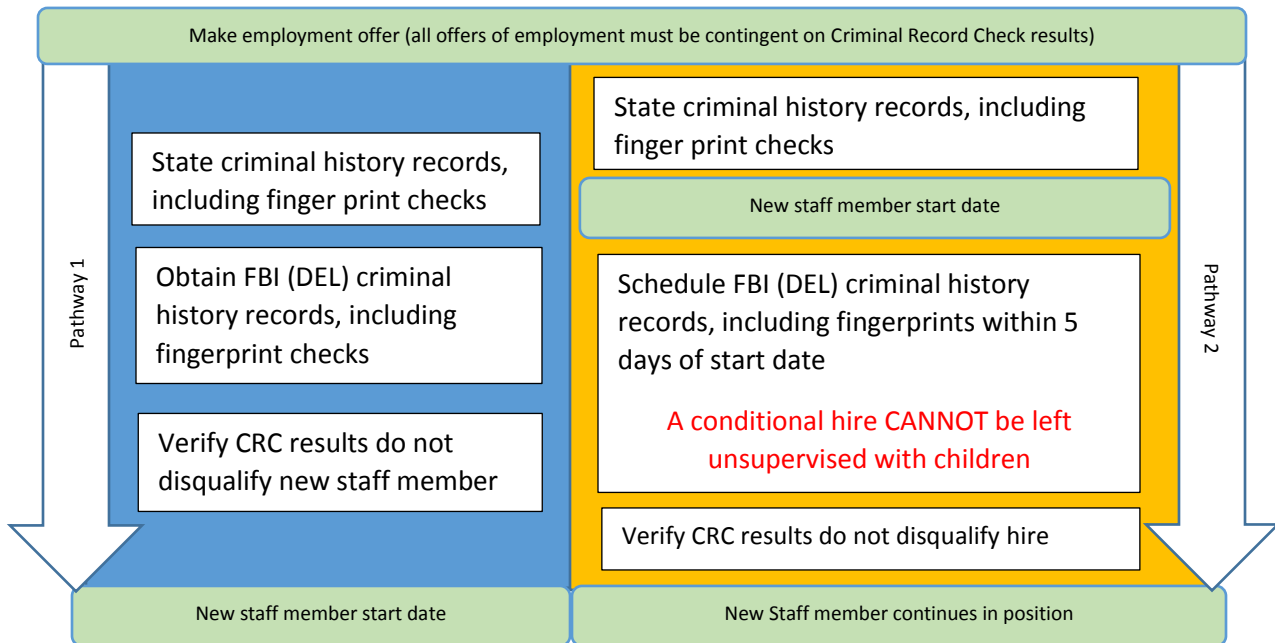
1. Before start date, complete WSP Washington Access to Criminal History (WATCH) check (<https://fortress.wa.gov/wsp/watch/>).
2. Review the results
3. If the staff person's WATCH results don't disqualify them from employment, proceed with conditional hire, pending employment-eligible results from fingerprint-based Criminal Record Check(s).

Before a person is hired, all prospective employees, contractors, substitutes will have a national sex offender registry check obtained. <https://www.nsopw.gov/>

**TWO PATHWAYS:** There are two pathways to determine if a potential staff person is eligible for employment in our Early Learning Department.

In the first pathway, you determine eligibility before the staff person starts the position. This is the preferred pathway for all positions.

In the second pathway, the new staff person is hired ***conditionally***, pending their eligibility results. In this pathway, the new staff person CANNOT be left unsupervised with children until the results have been received and reviewed for eligibility. **NOTE – 90 days to get 2<sup>nd</sup> background check, can't be left alone with children**



## Detailed Pathway Steps

### Pathway 1 (Preferred Method)

1. Make employment offer.
  - a. NOTE: All offers of employment must be contingent on eligible fingerprint-based WSP and FBI (DEL Portable Background Check) Criminal Record Check results. Should results disqualify a candidate their offer of employment will be withdrawn.
2. Before start date, obtain fingerprint-based WSP and FBI (DEL) Criminal Record Check results.
  - a. If staff person was fingerprinted in the past 2 years and the results were forwarded to the Office of Superintendent of Public Instruction (OSPI), their records can be obtained by:
    - i. Access to the Educational Data System (EDS), which holds the results of those checks.
    - ii. Other agencies can submit a Request for Background Check Results Form to OSPI  
[www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc](http://www.k12.wa.us/ProfPractices/forms/RequestforBackgroundCheckResults.doc)
  - b. If 'a' above doesn't apply, there are 2 options to have fingerprints taken:
    - i. Fingerprinting Option 1 (Prints taken at ESD):
      1. Have prints taken at OESD 114 or any other WA state ESD office ([www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx](http://www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx))

- c. [Follow the Department of Early Learning \(DEL\) Portable Background Check Instructions](#)
3. Review the results using the guidance on pages 3 and 4 of this document.
4. If the staff person's criminal record check results don't disqualify them from employment, proceed with job offer.
5. All original criminal record check results (for documentation only, not eligibility) will be kept in new staff member's personnel file.

### **Pathway 2 (Conditional Hire)**

1. Make employment offer.
  - a. NOTE: All offers of employment must be contingent on eligible fingerprint-based WSP and FBI (DEL Portable Background Check) Criminal Record Check results. Should results disqualify a candidate their offer of employment will be withdrawn.
2. Before start date complete one of the following:
  - a. WSP (State) criminal history records, including finger prints, or
    - i. Have prints taken at OESD 114 or any other WA state ESD office ([www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx](http://www.k12.wa.us/ProfPractices/fingerprint/ESDoffices.aspx)), or
    - ii. Prints taken at private or law enforcement agency
  - b. FBI (DEL) criminal history records, including finger prints
    - i. [Follow the Department of Early Learning \(DEL\) Portable Background Check Instructions](#)
3. Within 90 days of state date, employee must complete whichever check was not obtained prior to date of hire (listed above)
4. Review the results of completed criminal record checks
5. If the staff person's criminal record check results don't disqualify them from employment, remove conditional status.
6. All original criminal record check results (for documentation only, not eligibility) will be kept in new staff member's personnel file.

### **Reading the Results**

A result of "Clear" from both WSP and FBI (DEL) makes the new staff person eligible for employment.

If you receive an actual listing of criminal record history, RCW 43.215.215 (1) says: In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child.

For additional guidance on crimes that would make a new staff person ineligible for a position in our program, OESD 114 is using WAC 170-06-0120 (originally intended specifically for childcare) as guidance for our full program as well as OESD 114 Human Resources.

**WAC 170-06-0120: Director's list.**

A subject individual's conviction for any crimes listed in column (a) in the table below will permanently disqualify him or her from authorization to care for or have unsupervised access to children in child care.  
(2) A subject individual's conviction for any crime listed in column (b) in the table below will disqualify him or her from authorization to care for or have unsupervised access to children in child care for a period of five years from the date of conviction.

**(Column A) Crimes that permanently disqualify a subject individual**

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| <ul style="list-style-type: none"> <li>• Abandonment of a child</li> <li>• Arson</li> <li>• Assault 1</li> <li>• Assault 2</li> <li>• Assault 3 domestic violence</li> <li>• Assault of a child</li> <li>• Bail jumping</li> <li>• Child buying or selling</li> <li>• Child molestation</li> <li>• Commercial sexual abuse of a minor</li> <li>• Communication with a minor for immoral purposes</li> <li>• Controlled substance homicide</li> <li>• Criminal mistreatment</li> <li>• Custodial interference</li> <li>• Dealing in depictions of minor engaged in sexually explicit conduct</li> <li>• Domestic violence (felonies only)</li> <li>• Drive-by shooting</li> <li>• Extortion 1</li> </ul> | <ul style="list-style-type: none"> <li>• Harassment domestic violence</li> <li>• Homicide by abuse</li> <li>• Homicide by watercraft</li> <li>• Incendiary devices (possess, manufacture, dispose)</li> <li>• Incest</li> <li>• Indecent exposure/public indecency (felonies only)</li> <li>• Indecent liberties</li> <li>• Kidnapping</li> <li>• Luring</li> <li>• Malicious explosion 1</li> <li>• Malicious explosion 2</li> <li>• Malicious harassment</li> <li>• Malicious mischief domestic violence</li> <li>• Malicious placement of an explosive 1</li> <li>• Manslaughter</li> <li>• Murder/aggravated murder</li> <li>• Possess depictions minor engaged in sexual conduct</li> <li>• Rape</li> <li>• Rape of child</li> </ul> | <ul style="list-style-type: none"> <li>• Robbery</li> <li>• Selling or distributing erotic material to a minor</li> <li>• Sending or bringing into the state depictions of a minor</li> <li>• Sexual exploitation of minors</li> <li>• Sexual misconduct with a minor</li> <li>• Sexually violating human remains</li> <li>• Use of machine gun in felony</li> <li>• Vehicular assault</li> <li>• Vehicular homicide (negligent homicide)</li> <li>• Violation of child abuse restraining order</li> <li>• Violation of civil anti-harassment protection order</li> <li>• Violation of protection/contact/restraining order</li> <li>• Voyeurism</li> </ul> |
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**(Column B) Crimes that disqualify a subject individual for five years from date of conviction**

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| <ul style="list-style-type: none"> <li>• Abandonment of a dependent person not against child</li> <li>• Assault 3 not domestic violence</li> <li>• Assault 4/simple assault</li> <li>• Burglary</li> <li>• Coercion</li> <li>• Custodial assault</li> <li>• Custodial sexual misconduct</li> <li>• Extortion 2</li> <li>• Forgery</li> <li>• Harassment</li> <li>• Identity theft</li> <li>• Leading organized crime</li> <li>• Malicious explosion 3</li> <li>• Malicious mischief</li> </ul> | <ul style="list-style-type: none"> <li>• Malicious placement of an explosive 2</li> <li>• Malicious placement of an explosive 3</li> <li>• Malicious placement of imitation device 1</li> <li>• Patronizing a prostitute</li> <li>• Possess explosive device</li> <li>• Promoting pornography</li> <li>• Promoting prostitution 1</li> <li>• Promoting prostitution 2</li> <li>• Promoting suicide attempt</li> <li>• Prostitution</li> <li>• Reckless endangerment</li> <li>• Residential burglary</li> <li>• Stalking</li> <li>• Theft</li> </ul> | <ul style="list-style-type: none"> <li>• Theft-welfare</li> <li>• Unlawful imprisonment</li> <li>• Unlawful use of a building for drug purposes</li> <li>• Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)</li> <li>• Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)</li> <li>• Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)</li> <li>• Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)</li> </ul> |
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