

Criminal Background Checks

Consistent with the Older Americans Act [42 USC 3025(a)(1)(C)] and the Older Michiganians Act [MCL 400.586(c) and (k)], the Aging and Adult Services Agency (AASA) is primarily responsible for the planning, policy, development, administration, coordination, priority setting and evaluation of all state activities and supervising all agencies receiving funds from the state agency. The purpose of this policy is to outline a procedure for criminal background checks to safeguard the welfare of older adults and to increase assurance that they are better protected from potential abuse and exploitation.

Policy:

1. Each Area Agency on Aging (AAA) must conduct or cause to be conducted a criminal background check that reveals information similar or substantially similar to information found on an Internet Criminal History Access Tool (ICHAT) check and a national and state sex offender registry check for each new employee, employee, subcontractor, subcontractor employee, and volunteer who has in-person client contact, in-home client contact, access to a client's personal property, or access to confidential client information:
 - A. ICHAT: <http://apps.michigan.gov/ichat>
 - B. Michigan Public Sex Offender Registry: <http://www.mipsor.state.mi.us>
 - C. National Sex Offender Registry: <http://www.nsopw.gov>
2. Criminal background checks for new hires must be completed prior to the individual working directly with clients or having access to a client's personal property or confidential client information.
3. All AAAs are required to update criminal background checks for all employees and volunteers every three years to identify convictions in the event they occur while an individual is employed or providing volunteer service:
 - A. All employees and volunteers hired prior to the effective date of this policy must be re-screened within 90 days from the effective date of this policy. Thereafter, criminal background checks for these employees and volunteers must be completed no later than 30 days after every third anniversary from the date of their last background check.
 - B. Updated criminal background checks for employees and volunteers hired after the effective date of this policy must be completed no later than 30 days after every third anniversary of their date of hire.
4. The use of information obtained from a criminal background check shall be restricted to determining suitability for employment and/or volunteer opportunities. All AAAs are required to maintain a copy of the results of each criminal background check for paid and volunteer staff in a confidential and

controlled access file. The information should not be used in violation of any applicable Federal or State equal employment opportunity law or regulation.

5. Exclusions: No employee or volunteer shall be permitted to work directly with clients or have access to a client's personal property or confidential client information if:

A. Mandatory Exclusions: The results of the criminal background check show that the person has a federal or state felony conviction related to one or more of the following crimes:

- Crimes against a "vulnerable adult" as set forth in MCL 750.145n *et seq*;
- Violent crimes including, but not limited to, murder, manslaughter, kidnapping, arson, assault, battery and domestic violence;
- Financial crimes including, but not limited to, fraud, forgery, counterfeiting, embezzlement and tax evasion;
- Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, and prostitution;
- Cruelty or torture;
- Abuse or neglect; or
- Felony involving the use of a firearm or dangerous weapon.

B. Felony Convictions: The results of the criminal background check show that the person has a federal or state felony conviction within the preceding 10 years from the date of the background check, including but not limited to:

- Crimes involving state, federal, or local government assistance programs;
- Theft crimes including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, and conversion; or
- Drug crimes including, but not limited to, possession, delivery, and manufacturing.

C. Misdemeanor Convictions: The results of the criminal background check show that the person has a federal or state misdemeanor conviction within the preceding 5 years from the date of the background check, including but not limited to:

- Crimes involving state, federal, or local government assistance programs;
- Crimes against a “vulnerable adult” as set forth in MCL 750.145n *et seq*;
- Financial crimes including, but not limited to, fraud, forgery, counterfeiting, embezzlement and tax evasion;
- Theft crimes including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, and conversion;
- Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, and prostitution;
- Drug crimes including, but not limited to, possession, delivery, and manufacturing;
- Cruelty or torture;
- Abuse or neglect;
- Home invasion;
- Assault or battery; or
- Misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

For purposes of the excluded offenses identified above, an individual is considered to have been convicted of a criminal offense when:

- a judgment of conviction has been entered against the individual or entity by a federal, state, tribal or local court regardless of whether there is an appeal pending;
- there has been a finding of guilt against the individual by a federal, state, tribal or local court; or
- a plea of guilty or nolo contendere by the individual has been accepted by a federal, state, tribal or local court.

Arrest records, by themselves, do not disqualify an individual.

6. All AAAs are required to maintain documentation of all criminal background checks, including a list of all paid and volunteer staff that are subject to this policy, the date of the most recently completed criminal background check, and the source of the background check. Employees hired prior to the effective date of this policy are not exempt from this requirement.
7. AASA does not consider Senior Community Service Employment Program (SCSEP) enrollees to be AAA *employees* or *volunteers* for the purposes of this policy. Rather, SCSEP enrollees are participants in a federal employment and training program funded by the U.S. Department of Labor (USDOL). As such,

AAAs that serve as a host agency for SCSEP participants are advised to comply with the USDoL policy described below:

“Grantees may take the responsibility of providing background checks before placing participants in community service assignments, provided that the background check is conducted because of the requirements of a specific community service assignment, rather than based on a particular participant, and is consistently applied to all applicants considered for that position. We stress that background checks are relevant to the assignment of participants to particular host agency positions only and cannot be used as a basis for denying eligibility. In addition, grantees should be careful to comply with EEOC and any state or local rules regarding the use of background checks.”

8. AASA field representatives will verify the completeness of criminal background check staff lists during the annual on-site AAA assessment. Additionally, AASA field representatives will test a random sample of at least ten percent of employee and volunteer files for employees and volunteers that are subject to this criminal background check policy to verify criminal background check documentation for AAAs with ten or more paid or volunteer staff. AASA field representatives will test all documentation for employees and volunteers that are subject to this criminal background check policy at AAAs with less than ten paid or volunteer staff. Results of this review will be included in AASA's AAA assessment feedback report.