



CRIMINAL BACKGROUND CHECKS: AN UPDATE

Counsel's Office
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Governor

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Background – A Refresher

- Criminal background checks (CBC) have been in effect for over a year.
 - For prospective employees and volunteers;
 - For new credentialing and certification applicants;
 - For credentialed individuals upon renewal.
- OASAS pays the fingerprinting costs for prospective employees (including volunteers) for not for profit providers and for credentialing applicants. OASAS does not pay for prospective employees of for-profit providers.
- **MorphoTrust** is the OASAS fingerprinting vendor – use the correct ORI # and provider #



Who is checked?

- **Prospective employees, volunteers or contractors** of any provider certified or funded by OASAS who will have ***the potential for, or may be permitted, regular and substantial unsupervised or unrestricted contact with clients;***
 - ***Prospective employees who are supervised at all times, do not have to be checked.***
- All persons receiving an initial or renewal OASAS credential; and
- All applicants for an operating certificate.



Credentialing Applicants

- **NEW PROCEDURES REGARDING WHEN APPLICANTS SHOULD BE FINGERPRINTED**
- Credentialing applicants should only be fingerprinted after being directed by OASAS in writing to get fingerprinted.
- Applicants should NOT get fingerprinted prior to that time, or they will be held responsible for the fingerprinting fee.
- Applicants who were recently fingerprinted may request a waiver by contacting OASAS at cbc@oasas.ny.gov.



STAFF EXCLUSION LIST

- Approximately 20 individuals are on the SEL.
- All providers must check the SEL **BEFORE** sending an applicant for fingerprinting.
- If a prospective employee is on the SEL, the provider cannot hire that individual and should not send him or her for fingerprinting.
- Any authorized person can check the list maintained the Justice Center via a web form.



SCR

- All providers, even those that do not serve children, must request a check of the Statewide Child Abuse Registry (SCR) **BEFORE** sending the applicant for fingerprinting.
- A provider does not need to await a response to the request before proceeding with hiring the applicant.
- If the applicant is on the SCR, the provider must determine whether to continue to employ him or her.
- The SCR is administered by the Office of Children and Family Services (OCFS). Any questions regarding how to conduct an SCR check should be directed to OCFS.



Waivers

- If an applicant has recently (within the past three (3) months) been fingerprinted for an OASAS provider or credentialing, OASAS may be able to waive the fingerprinting requirement.
- To request a waiver, please contact the OASAS CBC unit via e-mail.
- The provider must still have the applicant sign a consent and conduct SEL and SCR checks.
- **IMPORTANT:** A provider is **NOT ALLOWED** to accept a determination regarding another provider in lieu of sending an applicant for fingerprinting.



Registering an Applicant for Fingerprinting with MorphoTrust

- You must use the correct ORI number and provider number
 - The provider number designates who will receive our determination.
 - You are not entitled to the results of the fingerprint if you are not hiring that person.
 - Credentialing applicants use a different provider number, which is provided to them by OASAS, and must follow the instructions provided to them by OASAS.
- Do not use the OASAS billing account if you are not authorized to do so.
 - **Misuse of the OASAS billing account number will result in fines and other penalties.**
- If an applicant's fingerprints are rejected, he or she may have to return for a reprint. The applicant will be contacted by MorphoTrust.
- Applicants are local service applicants, not employee applicants.



Registering an Applicant for Fingerprinting with MorphoTrust

- Be sure to include the applicant's job title under the section marked "Job Duties." Do not simply put "direct contact" or some similar vague statement. OASAS will not issue a determination if sufficient information is not provided.
- Enter the applicant's mailing address correctly. OASAS will use this address to contact the applicant if necessary. If the applicant does not claim the certified letter or does not respond, OASAS may deny the applicant.



HIRING STATUSES

- A provider cannot hire an applicant if the provider has not received a determination from OASAS.
 - Providers found to be hiring applicants prior to receiving a determination will be fined.
 - Providers may temporarily hire applicants pending a determination only if the applicant will be supervised at all times AND the provider notifies OASAS that the applicant has been temporarily hired.
- If OASAS needs to obtain court information and/or evidence of rehabilitation, and the provider decides not to hire the applicant – please NOTIFY our office.
 - OASAS will not continue a review of the file if you do not plan to hire the applicant.



Temporary Employment

- A provider may temporarily hire an applicant pending a determination from OASAS.
- The provider must notify OASAS that the applicant has been temporarily hired.
- The temporary employee may NOT have **unsupervised or unrestricted physical contact with individuals receiving services.**
 - Unsupervised or unrestricted contact = in-person, face to face communication or interaction; or a reasonable opportunity for such contact while not in a reasonable physical proximity of another person who is employed by the provider and who has management oversight; or at least 6 months of experience with the provider and has been deemed by the provider to be qualified.



Provider Notifications

- A provider must immediately notify OASAS, but no later than 14 days, of the following:
 - The individual has withdrawn his or her application or is no longer considered for the position;
 - A hiring decision has been made with respect to the individual who was subject to and underwent a CBC; and/or
 - An individual who was subject to and underwent a CBC is no longer employed.
- Providers may update the status by:
 - Sending the information (applicant name, date of status change, status) to OASAS via e-mail; or
 - Entering the information directly into the CBC system if the provider has access.



EVIDENCE OF REHABILITATION

- OASAS does not need court information (dispositions) unless we ask for it.
- OASAS wants evidence of rehabilitation addressing the applicant's activities and accomplishments after the last arrest.
- If OASAS asks the applicant about a specific crime, OASAS will not issue a determination if the applicant does not provide us with the information requested.
- If an applicant fails to respond to our request, the application will be **DENIED** for failure to respond.
 - No exceptions
 - The applicant will have to be fingerprinted again and the OASAS billing account number cannot be used for the applicant.



Resources

- OASAS Justice Center:
 - www.oasas.ny.gov/JC/index.cfm
 - This website will be updated often with information pertinent to the CBC process.
 - Forms.
- Legal Action Center www.lac.org
 - Provides information regarding obtaining and correcting criminal history information, as well as how to obtain evidence of rehabilitation.
- Questions – email us at cbc@oasas.ny.gov

