

## **POLICY**

**SUBJECT: Residential Child Care Programs (RCCP) Background Investigations**

**NUMBER: MGT-644-19**

**APPLICABLE TO: All employees, volunteers, and interns of RCCP**

**APPROVED:** \_\_\_\_\_ /s/ signature on original

**Sam Abed, Secretary**

**DATE:** \_\_\_\_\_ 5/14/19

### **I. POLICY**

The Department of Juvenile Services (DJS) requires all Residential Child Care Programs (RCCP) to complete a background investigation on all employees, volunteers, or interns prior to the individual working with youth and every two years thereafter in accordance with state and federal statutes.

### **II. AUTHORITY**

- A. 42 U.S.C. 671 – P.L. 471 (20)
- B. P.L. 115-123, Bipartisan Budget Act of 2018, Family First Prevention Services Act
- C. MD. CODE ANN., HUM. SERVS. §§ 9-203, -204, -207, & -209
- D. MD. CODE ANN., FAM. LAW §§ 5-560 to -569
- E. COMAR 12.15.02
- F. COMAR 14.31.06.05
- G. American Correctional Association (ACA) Standards 4-JCF-6C-05
- H. Prison Rape Elimination Act (PREA) juvenile facility standards

### **III. DIRECTIVES/POLICIES RESCINDED**

- A. None

### **IV. FAILURE TO COMPLY**

Failure to comply with the Department's Policy and Procedures shall be grounds for disciplinary action up to and including termination of employment.

### **V. STANDARD OPERATING PROCEDURES**

Standard operating procedures have been developed.

**VI. REVISION HISTORY**

DESCRIPTION OF REVISION	DATE OF REVISION
New policy issued.	May 14, 2019

## PROCEDURES

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**APPROVED:** \_\_\_\_\_ /s/ signature on original

**Lynette Holmes, Deputy Secretary**

**DATE:** \_\_\_\_\_ 3/13/19

### **I. PURPOSE**

The purpose of these procedures is to provide guidelines for the completion of background investigations for all employees, volunteers, and interns of RCCP before employment and every 2 years thereafter.

### **II. DEFINITIONS**

*Background investigation* means the investigation of an individual's background, including a criminal record check and child protection registry review of the individual.

*Child Protection Registry review* means the investigation of an individual's record in the Department of Human Services' database for any indicated findings of child abuse or neglect.

*Conviction* means a determination of guilt for a criminal offense in a court of law.

*Criminal background investigation* means the review of an individual's criminal history by gathering information from applicant's information and fingerprints for use in searching FBI and CJIS-CR records to determine if an individual has a criminal record.

*Employee* means an individual who is employed full or part time by a Residential Child Care Program on a permanent or contractual basis, including provisional and probationary employees.

*Pending charge* means a criminal offense for which an individual has been charged, but has not yet been adjudicated in court.

*Residential Child Care Program* means an organization which provides services on a recurring basis pursuant to a contractual agreement with the Department and is licensed by the Department of Human Services (DHS), Maryland Department of Health (MDH), or Department of Juvenile Services (DJS) for the residential treatment of youth including the following:

- Alternative living units;
- Group homes, including shelter care, respite care, mother/baby programs, programs for youth who are medically fragile or with developmental disabilities, diagnostic evaluation programs, or any other therapeutic residential program.
- Nonpublic residential educational facilities;
- MDH/Community Mental Health Programs/Residential Crisis Services; and
- State-operated residential educational facilities.

### **III. PROCEDURES**

#### **A. Background Investigations – Residential Child Care Program**

1. All employees, volunteers, and interns of a Residential Child Care Program shall submit, prior to working with youth, a background records check, including the results of searches of the applicant's criminal history and all applicable child abuse registries, to ensure no disqualification for employment exists.
2. Any employees, volunteers, interns, or applicant of a Residential Child Care Program shall be disqualified from employment if the individual has or obtains a conviction or convictions as enumerated in Section B. below.
3. Each Residential Child Care Program must have a personnel record for each employee. The employee/volunteer/intern record as required by COMAR 14.31.06.05 (E) (1) (e and f) must contain the documentation of the initial criminal record background checks and child protection registry check request and outcome. The RCCP shall have a system in place for capturing ongoing criminal background information for each employee, volunteer, or intern, and notify DJS of any disqualifying crime or incident and submit information, as required, to DJS.
4. The Department reserves the authority to terminate the contract of a Residential Child Care Program which employees or otherwise engages an individual to provide direct cares services to youth and who is then disqualified under Section B.

#### **B. Disqualification**

1. An employee of a Residential Child Care Program, a volunteer, or an intern shall be disqualified if the individual has or obtains a conviction or convictions enumerated in COMAR 12.10.01.20 and COMAR 14.31.06.05.
2. In addition to the convictions enumerated in COMAR 12.10.01.20 and COMAR 14.31.06.05, the following may result in disqualification of

applicants, termination of the employee of a Residential Child Care Program, or discontinuation of services provided by the volunteer or intern:

- a. a conviction of first degree assault;
- b. a conviction of child abuse;
- c. a conviction for distribution of controlled dangerous substances;
- d. convictions for infamous crimes, such as perjury or fraud, which have occurred within the past ten years;
- e. convictions and civil or administrative adjudications of activity involving engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse;
- f. instances of engaging in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
- g. incidents of sexual harassment (excluding unfounded accusations);  
or
- h. failure to report an arrest or pending charge for a criminal offense or a positive indication of child abuse or neglect.

3. The RCCP must complete a review of the Child Protection Registry every 2 years on all staff, volunteers and interns. In the event that the Child Protective Services update report has an indication of child abuse or neglect, or an employee's, volunteer's, or intern's criminal conviction otherwise requires the exercise of discretion by the program in employing, retaining, or dismissing an employee, the RCCP director shall:
  - a. determine whether selection, retention, or disqualification is appropriate. In no case may the individual have contact with youth while the decision is being made;
  - b. not allow the individual to continue employment or provide service, or be reassigned or promoted if the individual has been found to have engaged in any activities cited in COMAR 12.10.01.20 and as listed in section III. B. 2; and
  - c. notify DJS and forward a copy of the decision within 2 weeks of the determination.

#### **IV. RESPONSIBILITY**

RCCP Administrators are responsible for implementation and compliance with this procedure within 30 days of issuance. DJS Licensing and Monitoring staff are responsible for monitoring compliance with these procedures.

#### **V. INTERPRETATION**

The Deputy Secretary for Support Services shall be responsible for interpreting and granting any exceptions to these procedures.

**VI. LOCAL OPERATING PROCEDURES REQUIRED**

No

**VII. DIRECTIVES/POLICIES REFERENCED**

No policies referenced.

**VIII. APPENDICES**

None



## **DJS POLICY AND STANDARD OPERATING PROCEDURES**

### **Statement of Receipt and Acknowledgment of Review and Understanding**

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**SUBJECT: Residential Child Care Programs (RCCP) Background Investigations**  
**NUMBER: MGT-644-19**  
**APPLICABLE TO: All staff employed by RCCP**

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I have received and reviewed a copy (electronic or paper) of the above titled policy and procedures. I understand the contents of the policy and procedures.

I understand that failure to sign this acknowledgment form within five working days of receipt of the policy shall be grounds for disciplinary action up to and including termination of employment.

I understand that I will be held accountable for implementing this policy even if I fail to sign this acknowledgment form.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Full Name

\_\_\_\_\_  
Print Name of Residential Child Care Program

\_\_\_\_\_  
Date

***SEND THE ORIGINAL, SIGNED COPY TO THE DIRECTOR OF LICENSING & MONITORING.***