

# NATIONAL SERVICE CRIMINAL HISTORY CHECKS GUIDANCE OUTLINE

This outline is a training tool designed to help new AmeriCorps program staff create a National Service Criminal History Check (NSCHC) policy. It will be most helpful when used alongside the Grant Terms and Conditions, AmeriCorps Regulations, and other CNCS-specific guidance. The outline is for reference only; it does not contain citations for all AmeriCorps grant or program requirements. Additional information on the NSCHC may be found on the National Service Knowledge Network: <http://www.nationalservice.gov/resources/criminal-history-check><http://www.nationalservice.gov/resources/criminal-history-check>.

**Purpose:** Under the National and Community Service Act of 1990, as amended by the Serve America Act (SAA), all grantees must conduct National Service Criminal History checks on participants and program employees in AmeriCorps, Foster Grandparent, Senior Companion, MLK, 9/11, Volunteer Generation Fund, Social Innovation Fund and any other programs funded by the Corporation under National Service laws. All employees, participants, and others who receive a salary, national service education award, living allowance, or stipend under Corporation grants, even if the activities don't involve service with vulnerable populations, must conduct the checks prior to beginning employment or service. RSVP and VISTA grantees are required to conduct criminal history checks on all employees who receive part or all of their salary from the respective program grant.

The statutory requirement at 42 U.S.C. § 12645g is supplemented by regulatory requirements at 45 CFR §2540.200 through §2540.207 (updated in 2012) as well as the AmeriCorps Grant Terms and Conditions.

SECTION	REQUIREMENTS	RECOMMENDATIONS/ BEST PRACTICES
<b>DETERMINING WHO GETS CHECKED</b>	<ul style="list-style-type: none"> <li>The NSCHC procedure must include a process that identifies any individual that receives a salary, stipend, living allowance or education award from a CNCS-funded program. These individuals are required to undergo the NSCHC process. In all cases except fixed amount awards, the key test is if an individual is “on budget.” If they are “on budget,” they must undergo the process.</li> <li>If the organization has a fixed amount award, “covered</li> </ul>	<ul style="list-style-type: none"> <li>The NSCHC procedure must include a process that identifies any individual that receives a salary, stipend, living allowance or education award from a CNCS-funded program. These individuals are required to undergo the NSCHC process. In all cases except fixed amount awards, the key test is if an individual is “on budget.” If they are “on budget,” they must</li> </ul>

	<p>positions” are the individuals performing activities described in application narrative. The program must have a process to identify these individuals.</p>	<p>undergo the process.</p> <ul style="list-style-type: none"> <li>• If the organization has a fixed amount award, “covered positions” are the individuals performing activities described in application narrative. The program must have a process to identify these individuals.</li> </ul>
<p><b>CONSENT</b></p>	<ul style="list-style-type: none"> <li>• The NSCHC procedure must include verification of the identity of the candidate for a covered position through government-issued photo identification. The program must maintain documentation of identification in the member file. <ul style="list-style-type: none"> <li>○ This doesn’t have to be a copy of the ID, but can be a notation of the ID #, type of ID and sign off by the individual who examined the ID. If you make a photocopy of the ID, ensure it is legible.</li> </ul> </li> <li>• The NSCHC procedure must include getting written consent from candidates to perform checks. The program must maintain documentation of consent in the member file. <ul style="list-style-type: none"> <li>○ This can be incorporated in the application for work/service, or it can part of the service/work contract/agreement. You can also have a separate form that asks for this authorization.</li> </ul> </li> <li>• The NSCHC procedure must include a process for clarifying for a covered position candidate the understanding that his or her position is contingent on eligibility determined by the results of the NSCHC. The program must maintain documentation in the member file.</li> </ul>	<p>N/A</p>

	<ul style="list-style-type: none"> <li>○ This can be incorporated in the application for work/service, or it can part of the service/work contract/agreement. You can also have a separate form that affirms understanding.</li> </ul>	
<b>CONDUCTING THE CHECKS</b>	<ul style="list-style-type: none"> <li>● The NSCHC procedure must allow you to determine which individuals have recurring access to vulnerable populations. The procedure should indicate that these individuals will need three checks (NSOPW, State and FBI) and individuals without recurring access will need two (NSOPW and EITHER State or FBI).</li> <li>● If you have individuals without recurring access, the program should determine if your procedure should require using State Checks or FBI Checks.</li> </ul>	<ul style="list-style-type: none"> <li>● You may indicate the type of covered position in the position description.</li> <li>● Some organizations choose to treat everyone as if they have recurring access, and do all three checks even when they are not strictly required. This is a strong practice, as it provides extra security and administrative consistency for limited additional cost. <ul style="list-style-type: none"> <li>○ State Checks are generally easier if an organization recruits from a limited number of states. If recruitment is done nationally, FBI Checks may be better.</li> </ul> </li> </ul>
<b>THE NSOPW</b>	<ul style="list-style-type: none"> <li>● The program’s NSCHC procedure must include requirements to conduct a nationwide NSOPW search before candidate begins work or service, where work or service includes any hours that will be charged to a CNCS-funded grant, including orientation and training hours. The procedure must include a process for documenting an individual’s start of work or service, as defined in the previous sentence.</li> <li>● You must retain results by either taking a screenshot or printing the screen, including a ‘no hits found’ result.</li> <li>● The NSCHC procedure must include requirements to conduct additional checks if state(s) are not reporting when you run the initial check. This can include either re-</li> </ul>	<ul style="list-style-type: none"> <li>● Going directly to the downed states is recommended as a best practice, as it allows you to complete everything at once.</li> <li>● A best practice is to print out the results and annotate them with a pen, checking off each result with your initials and the information that you used to clarify it wasn’t your candidate (age, sex, picture, for example).</li> <li>● A best practice is to have a second person double check NSOPW completion prior to charging any hours to the grant.</li> </ul>

	<p>running the NSOPW at a later date or going directly to the downed sources through a web search.</p> <ul style="list-style-type: none"> <li>You must save the hits result on a name, along with documentation that each hit was resolved before clearing the individual to begin work or service.</li> </ul>	
<b>STATE CHECKS</b>	<ul style="list-style-type: none"> <li>If you conduct a State Check, your NSCHC procedure must include a requirement to initiate a State of Residence Check and a State of Service Check no later than the first day of work or service, where work or service includes any hours that will be charged to a CNCS-funded grant, including orientation and training hours.</li> <li>The State of Residence is the state where someone physically resides at the time of their application for work or service. Your NSCHC procedure should require the collection and documentation of this information.</li> </ul>	N/A
<b>FBI CHECKS</b>	<ul style="list-style-type: none"> <li>The NSCHC procedure must include requirements to initiate the FBI check, when required, no later than the first day of work or service, where work or service includes any hours that will be charged to a CNCS-funded grant, including orientation and training hours.</li> <li>The NSCHC procedure should specify the source used for the FBI Checks. <ul style="list-style-type: none"> <li>In most cases, this should be the same sources where you receive states checks.</li> </ul> </li> <li>The NSCHC procedure must document the process it will use for “initiation” of FBI Checks, which CNCS defines as one step after consent and maintaining documentation of initiation.</li> </ul>	<ul style="list-style-type: none"> <li>If the organization recruits nationally or is in a state that does not provide FBI checks, they may: <ul style="list-style-type: none"> <li>Have an approved alternative search procedure (ASP) from CNCS authorizing them to go to the FBI directly for checks via the “Departmental Orders” process;</li> <li>Have an approved, valid exemption from CNCS from the FBI checks;</li> <li>Maintain a rejection letter from their state repository on file and go to the FBI directly for checks via the</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• The NSCHC procedure must have a process for documenting when the results are received and reviewing the results to verify that the individual is eligible and maintaining the documentation.</li> </ul>	<p>“Departmental Orders” process (available only until March 31, 2016); or</p> <ul style="list-style-type: none"> <li>○ Use Fieldprint, CNCS’ official Channeler to obtain FBI checks (beginning January 1, 2016).</li> </ul> <ul style="list-style-type: none"> <li>• As with State Checks, the best processes to use for initiation involve ones that involve outside organizations, such as the state repositories, as opposed to intra-organizational processes. It is also recommended that, if possible, an initiation process has a natural paper trails. Paying for checks is an excellent example, as this involves interaction with the repository and will generally result in a receipt.</li> </ul>
<b>ACCOMPANIMENT</b>	<ul style="list-style-type: none"> <li>• Accompaniment must be performed when individuals are in contact with vulnerable populations while State and FBI checks are pending.</li> <li>• An individual is accompanied when he or she is in the physical presence of a person cleared for access to a vulnerable population.</li> <li>• Accompaniment can cease when either a State or FBI check is cleared.</li> </ul>	<p>This can be done on a timesheet that identifies who did the accompaniment, on whom, on what days and for what period of time with regular sign off from the individual performing the accompaniment attesting to their physical presence.</p>
<b>SELECTION AND ADAPTION</b>	<ul style="list-style-type: none"> <li>• The NSCHC procedure must include a step to consider results of all the checks in selecting the individual and maintaining documentation of this decision.</li> </ul>	<ul style="list-style-type: none"> <li>• You can document the consideration of results with a sign off from the individual who reviewed and considered the results of each component and made the final selection. You</li> </ul>

	<ul style="list-style-type: none"> <li>• The NSCHC procedure should provide opportunity for candidates to review their own results and to correct as needed.</li> <li>• If your NSCHC procedure includes an ASP approval, the procedure should include all the elements required by this approval.</li> <li>• The NSCHC procedure should specify that the organization uses the required sources for the checks. <ul style="list-style-type: none"> <li>○ See “CNCS Designated State Criminal History Information Repositories and Alternatives” at <a href="http://www.nationalservice.gov/resources/criminal-history-check">http://www.nationalservice.gov/resources/criminal-history-check</a> for the required sources.)</li> </ul> </li> <li>• If the organization uses a vendor to conduct the checks, they should document what sources the vendor uses and that there are not any limitations on the data they receive. <ul style="list-style-type: none"> <li>○ See “Vendor Guidance” at <a href="http://www.nationalservice.gov/resources/criminal-history-check">http://www.nationalservice.gov/resources/criminal-history-check</a> for more information.</li> </ul> </li> <li>• If the organization uses a vendor to conduct the checks, the program must have procedures in place to obtain information that is not available to vendors.</li> </ul>	<p>can also use this as an opportunity to review all the documentation in the file to be sure it’s compliant.</p>
<b>RESOURCES</b>		<p>Criminal History Check Resources  <a href="http://www.nationalservice.gov/resources/criminal-history-check">http://www.nationalservice.gov/resources/criminal-history-check</a></p>