



Virginia Service Commission National Service Criminal History Check

Effective May 1, 2021

I. Introduction

The National Service Criminal History Check (NSCHC) is a screening procedure established by law to protect the beneficiaries of national service. This guidance must be followed per the NSCHC requirements (45 CFR 2540.200 - .207). Organizations may face enforcement remedies, including financial consequences, if they deviate from the requirements.

AmeriCorps' NSCHC requirements are baseline-screening procedures, in terms of both screening criteria and safeguarding communities. Organizations working with vulnerable populations should institute a holistic framework for safeguarding beneficiaries of service. Safeguarding may include broader screening procedures as necessary to limit all risk to beneficiaries.

Fieldprint and Truescreen

Fieldprint

In September 2015, AmeriCorps contracted Fieldprint, Inc., ("Fieldprint") to provide FBI fingerprint-based checks ("FBI checks") to grant and subgrant recipients ("recipient(s)"). Fieldprint is one of a limited number of contractors, called Channelers, approved by the FBI to offer expedited access to the FBI's national criminal history information. Service to AmeriCorps recipients began in January 2016 and can be accessed only at the following website: www.fieldprintcnscs.com.

Truescreen

In July 2018, AmeriCorps approved Truescreen to provide State and National Sex Offender Public Website (NSOPW) checks to recipients. Truescreen is a vendor approved by AmeriCorps to provide NSOPW and state criminal history checks; research source-level documentation when needed; make adjudication recommendations to recipients; facilitate compliance with the Fair Credit Reporting Act (FCRA), including pre-adverse and adverse action notices; provide time records of relevant compliance steps like adjudication; and maintain records. All AmeriCorps recipients may use Truescreen. Service to AmeriCorps recipients began in November 2018 and can be accessed here: <https://applicationstation.truescreen.com>, using the AmeriCorps specific agreement code: CNCSAgreement.

Subgrantees must follow the information found in the AmeriCorps document '[Using Fieldprint and Truescreen for NSOPW, State and FBI Checks](#)' to set up, use, and adjudicate all NSCHC for covered positions.



II. Purpose

Subgrantees of Virginia Service Commission (VSC) are mandated to use Fieldprint to obtain fingerprint-based FBI checks on individuals in covered positions and Truescreen to conduct a NSOPW search and required state checks. The state check is not required to meet AmeriCorps requirements for Virginia if a grantee obtains an NSOPW check from Truescreen, obtains any required state checks that are available from Truescreen, and conducts a Fieldprint fingerprint-based FBI check.

III. Scope

- The Corporation’s guidance states that ‘A National Service Criminal History Check must be conducted for individuals in covered positions. Individuals in covered positions are individuals selected, under a AmeriCorps grant specified in 2540.200, by the recipient, subrecipient, or service site to work or serve in a position under an AmeriCorps grant specified in § 2540.200’; A National Service Criminal History Check is not required for individuals whose activity is entirely included in the grant recipient’s indirect cost rate.
- National Service Criminal History Checks determine eligibility
- Recipients must apply eligibility criteria relating to criminal history to individuals specified in 45 CFR 2540.201.
- Eligibility is a controlling determination on allowable versus unallowable costs.
- Ineligible individuals serving or working for a program are likely to have associated costs (living allowance, education award, salary, etc.) questioned during audit, and corrective action required during Commission or AmeriCorps oversight.

IV. Eligibility

An individual shall be ineligible to work or serve in a position specified in § 2540.201(a) if the individual

- a) Refuses to consent to a criminal history check described in § 2540.204;
- b) Makes a false statement in connection with a criminal history check described in § 2540.204;
- c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or
- d) Has been convicted of murder, as defined in 18 U.S.C. 1111.

V. Required Criminal History Checks:

Unless AmeriCorps approves a waiver under § 2540.207, for each individual in a position specified in § 2540.201, grantees or subgrantees must, obtain:

1. A nationwide check of the National Sex Offender Public website through NSOPW.gov;
2. A check of the State criminal history record repository or agency- designated alternative for the individual’s State of residence and State of service; and



3. A fingerprint-based check of the FBI criminal history record database through the State criminal history record repository or agency-approved vendor.

AmeriCorps will consider a Truescreen NSOPW check and a Fieldprint FBI fingerprint check to constitute a compliant check for Virginia, regardless of a covered position's access to vulnerable populations.

VI. Complete Checks Timeline

All NSCHC components must be conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient **before a person begins to work or serve** in a covered position as specified in § 2540.201(a).

If a person serves consecutive terms of service or employment with the same organization in a position specified in § 2540.201(a) and does not have a break in service or employment longer than 180 days, then no additional National Service Criminal History Check is required, as long as the original check complied with the requirements of § 2540.204.

A National Service Criminal History check must be conducted prior to the individual beginning a subsequent term of work or service for which the person is 18 years of age or older at the start of work or service.

Persons working or serving in positions specified in § 2540.201(a) prior to May 1, 2021, who continue working or serving in a position specified in § 2540.201(a) on or after November 1, 2021, must have a National Service Criminal History Check conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient based on the results of the National Service Criminal History Check .

VII. Required Procedural Steps

In addition to conducting the National Service Criminal History Check described in § 2540.204, grant recipients or subrecipients must:

1. Obtain a person's consent before conducting the state and FBI components of the National Service Criminal History Check;
2. Provide notice that selection for work or service for a position specified in § 2540.201(a) is contingent upon the organization's review of the National Service Criminal History Check component results;
3. Provide a reasonable opportunity for the person to review and challenge the factual accuracy of a result before action is taken to exclude the person from the position;
4. Take reasonable steps to protect the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant;
5. Maintain documentation of the National Service Criminal History Check as grant records; and
6. Pay for the cost of the NSCHC. Unless specifically approved by AmeriCorps under §



2540.207, the person who is serving or working in the covered position may not be charged for the cost of any component of a National Service Criminal History Check.

AmeriCorps-approved vendors may facilitate obtaining and documenting the requirements in paragraphs 1 through 5 of this section.

VIII. Required Use of Approved Vendors for Virginia AmeriCorps Programs

The following applies for subgrantees of the Virginia Service Commission when using AmeriCorps contracted Fieldprint (FBI) and Truescreen (State and NSOPW):

Required Compliant Checks if Truescreen/Fieldprint Used: Recurring Access to Vulnerable Population			Required Compliant Checks if Truescreen/Fieldprint Used: No/Episodic Access to Vulnerable Population		
NSOPW + FBI			NSOPW + FBI		
Check	Price	Avg. Time	Check	Price	Avg. Time
NSOPW	\$7.50	1 day	NSOPW	\$7.50	1 day
State*	Not available	Not available	State*	Not available	Not available
FBI	\$28.75	2 days	FBI	\$28.75	2 days

*Per above, the state check is not required to meet AmeriCorps requirements for this state if a grantee obtains an NSOPW check from Truescreen, obtains any required state checks (available state of residence check) that are available from Truescreen, and conducts a fingerprint-based FBI check. Please review the Truescreen ASP for more information.

IX. Consideration of Criminal History Findings and Member/Staff

Each AmeriCorps program must develop a written policy about how criminal history checks will be handled at their agency, including timeframe in which checks will be conducted. Specifically, this should cover how the program will evaluate members and staff who have findings on their criminal history check, to determine whether they will serve/work within the program.

Truescreen – Determining Eligibility

Complete Truescreen checks for individuals in covered positions before the start of work or service are required. A complete Truescreen check is defined as a check that is adjudicated by the grantee. This means that a program staff person with the proper approvals must log into their Truescreen account and manually adjudicate prior to an individual beginning work or service. All individuals in covered positions may not begin work or service until the Truescreen checks are complete and adjudicated.

Truescreen will adjudicate convictions based off AmeriCorps eligibility criteria. However, programs will have access to individual applicant conviction data and will need to accept or reject the individual according to their screening criteria. Regardless of the Truescreen adjudication recommendation, the program must enter a final adjudication decision in their



MyTruescreen account. If the program does not enter a final adjudication decision, the check is not complete, and if the applicant begins service/work, the check is noncompliant.

After viewing the report, you can adjudicate the case under Actions by clicking, “Adjudicate This Case”. The Adjudication window will open, and you can adjudicate the case by selecting either Pass or Pre-adverse

- Pass: Everything reported back meets your organizations standards
- Pre-adverse: Something reported on the background check does not meet your organization’s standards and the Member is unable to continue with your organization

Fieldprint – Determining Eligibility

- Cleared Recommendation
A *Cleared* recommendation means that an individual’s FBI criminal history record information did not contain an indication that the individual may have been convicted of murder or be required to register as a sex offender. However, it does not necessarily mean an individual is eligible for work or service. No single source of criminal history record information is comprehensive. You must, at a minimum, conduct all required steps in the NSCHC process before determining that someone is eligible for work or service.
- Not Cleared Recommendation
If when the results are returned you see a *Not Cleared* recommendation. That means that the selecting organization needs more information before it can make a final determination as to the fitness of an applicant. It does not mean that an applicant is ineligible for work or service. Selecting organizations must provide applicants with a reasonable opportunity to review and challenge the factual accuracy of a result before taking any adverse action on the basis of a Not Cleared recommendation (45 CFR 2540.205(d)).

Individual applicants have the opportunity to challenge a Not Cleared recommendation. Steps for an individual applicant to challenge a recommendation are located at <http://www.nationalservice.gov/FBIGuidance>

If an individual receives a Not Cleared recommendation and challenges those results, a selecting organization should take the following steps:

1. If an individual would like to challenge the results, the organization must provide at least 45 calendar days for an individual to challenge the factual accuracy of the results.
2. If an individual does not contact you to challenge the results, you may proceed with making your selection on the basis of the Not Cleared result and the results of your other screening mechanisms. You should not select someone who has received a Not Cleared recommendation for work or service unless they have satisfactorily challenged the results. If they do challenge the results, proceed to Step 3.

3. Work with applicants to discuss and document what may have caused them to receive a Not Cleared recommendation. The steps they will need to take will vary based on the specific reason they have obtained a Not Cleared recommendation, as described below. In most cases, they will need to obtain a new FBI check. You may choose to pay for this additional check (though you are not required to), and the cost of the additional check is an allowable grant cost. Go to <http://www.nationalservice.gov/FBIGuidance> for information on ways an applicant can obtain an FBI check, including their costs and turnaround times.
 - a. Applicants whose FBI criminal history record information contains erroneous information, including offenses that have been expunged, must demonstrate to your satisfaction that the record is erroneous. ⁶⁰ This may require them to present you with additional information, such as court documents, or to contact the agency that provided the erroneous information to correct the record. Instructions are available on the FBI's website at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>. If you intend to select an individual that has gone through this process, maintain (1) dated copies of the Not Cleared recommendation, (2) the evidence you used in making your eligibility determination, and (3) a contemporaneously dated memo to the file documenting your determination of the individual's eligibility.
 - b. Applicants whose FBI criminal history record information contains a conviction for an offense that relates to sex offenses or neglect, cruelty, or endangerment that did not actually lead to a requirement to register as a sex offender must demonstrate to your satisfaction that they are not required to register as a sex offender. You may request any additional information necessary to verify their eligibility. If the individual was not required to register, selection is at your discretion. You may choose to disqualify an individual for a conviction, even if it did not render them ineligible. However, the process by which you will determine the kinds of offenses that would render someone ineligible must be documented in your policies and procedures and followed consistently, in accordance with all relevant federal and state laws and regulations. If you select an individual that has gone through this process, maintain (1) dated copies of the Not Cleared recommendation, (2) the evidence you used in making your eligibility determination, and (3) a contemporaneously dated memo to the file documenting your determination of the individual's eligibility.
 - c. Applicants whose FBI criminal history record information contains a charge for a potentially disqualifying offense that does not clearly indicate that the individual was not convicted must demonstrate to your satisfaction the final outcome of the case. You may request any additional information necessary to verify eligibility. If the individual was not convicted of murder and is not required to be registered as a sex offender, selection is at your discretion. If you select an individual that has gone through this process, maintain (1) dated copies of the Not Cleared recommendation, (2) the evidence you used in making your eligibility determination, and (3) a contemporaneously dated memo to the file documenting your determination of the individual's eligibility.



Whether an individual is fit to work or serve with a selecting organization is a matter of discretion for the selecting organization, even though an individual may otherwise be eligible. Selecting organizations have a right and a duty to exercise their discretion in a manner that promotes a safe and effective program, mindful of state and federal nondiscrimination laws. Any eligibility determination must be dated contemporaneously with the determination and must be maintained as a grant record.

X. Other Requirements

Grant recipients and subrecipients, or service sites, may establish suitability criteria, consistent with state and Federal Civil Rights and nondiscrimination laws, for individuals working or serving in a position specified in § 2540.201(a). While members may be eligible to work or serve in a position specified in § 2540.201(a) based on the eligibility requirements of § 2540.202, a grant recipient, subrecipient, or service site may determine that an individual is not suitable to work or serve in such a position based on criteria that the grant recipient or subrecipient or service site establishes.

XI. NSCHC Documentation

Subgrantees will be required to develop/maintain:

- Evidence of adopted VSC NSCHC Policy and Procedures
- Evidence of annual NSCHC compliance training, as specified by AmeriCorps
- First and Last Names used on name-based checks should reflect the legal name of the individual, as reflected on documentation used to verify the identity of the individual
 - Documents used to verify an individual's identity must be consistent with sources described in the subrecipient's adopted NSCHC policies and procedures (sources may include documents collected with W-9 form, W-2 form, SSN verified name within AmeriCorps portal, and income eligibility documents from a government source)
 - **The VSC requires that programs verify identity using a government-issued photo ID as one of the sources**

AmeriCorps guidance states that the AmeriCorps-contracted Truescreen service maintains documentation of search results for seven years and the AmeriCorps-contracted Fieldprint service maintains records for three years. Programs must ensure that if the required records retention period for program records extends beyond the time periods Truescreen and Fieldprint retain records, that the actual, dated results of the criminal history checks are retained in separate and secure program files until the records retention period ends; results should not be kept with other AmeriCorps staff/member records. The actual printed and dated results of checks must also be retained securely for the required records retention period.



XII. Costs Incurred Conducting Criminal History Checks

The cost of conducting criminal history checks is an allowable cost, reimbursable with AmeriCorps grant funds. Member and employee applicants do not assume the cost of criminal history checks, unless AmeriCorps has given written permission to do so.

XIII. Financial Impact of Failure to Comply

AmeriCorps has released specific guidance on how disallowance is to be handled for cases of noncompliant NSCHCs. This is detailed in the National Service Criminal History Check Enforcement Guide. More information related to how disallowance is to be applied can be found at <http://www.nationalservice.gov/resources/criminal-history-check>.