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EMPLOYEES HAVING CONTACT WITH CHILDREN

F R E Q U E N T L Y A S K E D Q U E S T I O N S

Who needs clearances?

- An employee of child care services.
- A self-employed provider of child care services in a family child care home.
- An individual 14 years of age or older who is applying for or holding a paid position as an employee with a program, activity, or service as a person responsible for a child's welfare or having direct contact with children.
- If the program, activity or service is an internship, externship, work-study, co-op or similar program, only an adult applying for or holding a paid position with an employer that participates in the internship, externship, work-study, co-op or similar program with a school and whom the employer and the school identify as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer must obtain the clearances.
- Any individual seeking to provide child care services under contract

with a child care facility or program.

- An individual 18 years of age or older who resides for at least 30 days in a calendar year in the following homes which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code:
 - > A family living home
 - > A community home for individuals with an intellectual disability
 - > A host home for children
 - > An individual who applies to the department for a certificate of compliance or a registration certificate to provide child day care in a residence shall include criminal history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.Note: Individuals with intellectual disabilities or chronic psychiatric disabilities receiving services in a home are not included.

How do I determine which employees in my agency or organization need clearances?

Please review the following three questions to determine if employees in your agency/organization will need clearances:

1. Is the employee responsible for the welfare of a child? If the employee is acting in lieu of or on behalf of a parent, they will need clearances.
2. Does the employee have direct contact with children? Consider if the employee provides care, supervision, guidance, or control of children. As the terms above are not defined in statute, it is suggested that the common meaning of these terms be used, with child safety serving as the paramount consideration. If it is determined that the employee provides care, supervision, guidance, or control of children, then they will require clearances.
3. Does the employee have routine interaction with children? With regard to routine interaction,



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consideration should be given to what the employee's role is within the agency or organization. Is their contact with children regular, ongoing contact that is integral to their employment responsibilities? If yes, then clearances are required.

Please be sure to consult your legal counsel when making these determinations. You should also consult with your insurer regarding possible insurance coverage implications.

What is the definition of child?

For purposes of clearances, a child is an individual under 18 years of age.

Which clearances are needed?

Employees having contact with children must obtain the following three clearances:

- Report of criminal history from the Pennsylvania State Police (PSP);
- Child Abuse History Clearance from the Department of Human Services (Child Abuse); and
- Fingerprint-based federal criminal history submitted through the Pennsylvania State Police or its authorized agent (FBI).

Are employees that supervise minors through an internship, externship, co-operative, work study or similar program required to obtain clearances?

Yes. Employees that supervise minors

through an internship, externship, co-operative, work study, or similar program are required to obtain clearances because the supervisor is considered responsible for the child's welfare while participating in the program with the employer.

Are there exceptions to the clearance requirements for minors?

Yes. A minor (ages 14-17) applying for or holding a paid position in which they would be responsible for a child's welfare or have direct contact with children through a program, activity, or service is required to submit only their child abuse and PSP clearances if both of the following apply:

1. The minor employee has been a resident of the commonwealth during the entirety of the previous 10-year period or, if not a resident of Pennsylvania during the entirety of the previous 10-year period, has received an FBI clearance at any time since establishing residency in the commonwealth.
2. The employee and their parent or legal guardian swear and affirm in writing that the minor child/employee are not disqualified from service under the grounds for denying employment or have not been convicted of an offense similar in nature to those crimes under the laws or former laws of the United States or one of its

territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or foreign nation, or under a former law of this commonwealth.

Have the requirements changed for employees who supervise minors through an internship, externship, co-operative, work study, or similar program?

Yes. Act 54 of 2018 states that employees who participate in an internship, externship, co-operative, work study or similar program with a school, who have identified as the minor's supervisor and the person responsible for the child's welfare are required to obtain the report of criminal history from the Pennsylvania State Police and the child abuse clearance from the Department of Human Services — which are now provided free of charge for these employees, as they are considered volunteers under §§6344.2(a). The employee is not required to obtain the fingerprint-based criminal history (FBI) unless they have lived outside of the commonwealth in the last 10 years.

I have a non-immigrant visa (J-1 Visa) to work in the United States. Am I still required to obtain the Child Abuse, PSP, and FBI clearances?

An individual with a J-1 Visa shall not be required to submit the Child



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Abuse, PSP, and FBI clearances if all of the following apply:

1. They are applying for or hold a paid position with a program, activity, or service for a period not to exceed a total of 90 days in a calendar year.
2. They have not been employed previously in Pennsylvania or another state, the District of Columbia or the Commonwealth of Puerto Rico.
3. They swear or affirm in writing that they are not disqualified from service under the grounds for denying employment or have not been convicted of an offense similar in nature to the crimes listed under the grounds for denying employment under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this commonwealth.

How much do the clearances cost?

- The PSP criminal history clearance costs \$22.
- The Child Abuse clearance costs \$13.
- The FBI federal criminal history clearance costs \$23.85 through the Department of Human Services.

How often do I need to renew my clearances?

Clearances must be obtained every 60 months.

If an individual or agency, however, elects to renew all clearances at the same time, the date of the oldest clearance, rather than the most recent, is the date to be used for the renewal date.

Will there be a new process to obtain a clearance?

No. The process to obtain child abuse and criminal history clearances will remain the same. The Child Abuse and PSP clearances will continue to be applied for and paid for electronically. When indicating the purpose of the clearance, the applicant will continue to indicate employment and then the applicable type of employment.

All necessary instructions and links to apply for these clearances can be found on the “Clearances” page of the KeepKidsSafe.pa.gov website.

Can Child Abuse or PSP clearances obtained for volunteer activities be used for employment purposes?

No. Child Abuse and PSP clearances obtained for volunteer purposes can only be used for other volunteer activities. Child abuse history clearances obtained for volunteer purposes will indicate that the clearance is to be used for volunteer purposes only.

Can Child Abuse or PSP clearances obtained for employment purposes be used for volunteer purposes?

Yes, if you obtained a clearance for employment purposes within the previous 60 months you may use the clearance to serve in a volunteer capacity for any program, activity, or service.

Is the use of a third-party vendor to process clearances acceptable?

Third-party vendors may be used to process Child Abuse, PSP, and FBI clearances using the steps established above. They are not permitted to conduct background checks or clearances through other databases in lieu of the steps outlined above. In addition, employers remain responsible for the employment decision based on the information obtained.

Who pays for clearances?

The applicant or employee is responsible for paying the cost of the required clearances. However, some employers choose to pay for these clearances and are able to establish business accounts to pay for clearances. The only time an employer is required to bear the cost of the clearances is when there is reasonable belief that the employee was arrested or convicted of an



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offense that would deny employment or named as a perpetrator in an indicated or founded report. In these situations, the employer must immediately require the employee to obtain their clearances.

Can an agency or organization pay for clearances?

Child Abuse clearances

Yes, agencies and organizations can pay for Child Abuse clearances by registering for a Business Partner user account using the “Organization Account Access” link on the Child Welfare Portal at www.compass.state.pa.us/cwis. The business account will allow organizations to purchase Child Abuse clearance payment codes to be distributed to applicants or employees. Individual applicants or employees will then go onto the Child Welfare Portal to apply for the clearance using the code. The pre-purchased codes can only be used once and allows the organization to have access to the applicant’s results once those results are processed.

FBI clearances

An agency pay agreement/business account can also be created between an organization and the FBI, or authorized agent, for payment of FBI clearances. Information on creating an agency pay agreement for FBI clearances through the Department of Human Services can be found

on the “Clearances” page of the KeepKidsSafe.pa.gov website.

PSP clearances

An agency business account can be requested from the Pennsylvania State Police to pay for clearances in bulk by calling 1-888-783-7972 and selecting option 3. Organizations are also able to pay for applicant’s PSP clearances on an individual basis by using a credit card if applying online or submitting a paper check if applying by mail.

Are there any other requirements?

If an employee is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the employee must provide the administrator or their designee with written notice no later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database.

An employee who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment.

Can employers hire employees on a provisional basis?

No. Beginning December 31, 2019, with the passage of Act 47 of 2019, employers, administrators, supervisors or other persons responsible for employment decisions may no longer employ applicants on a provisional basis. Onboarding with no contact with children is not the intent of the Act.

Is there an exception or waiver to employers hiring on a provisional basis?

Only certified child care centers, group child care homes, or family child care home providers can request a waiver to hire employees on a provisional basis.

Is my employer required to keep a copy of my clearances?

Yes, pursuant to § 6344 (b.1), the employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity requiring clearances, shall maintain copies of the required information and require the individual to produce the required documents prior to employment or acceptance to serve in any such capacity, except provisional employees for limited periods as described in § 6344 (m) and outlined above. An employer, administrator, supervisor or other person responsible for employment



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decisions that intentionally fails to require an applicant to submit the required clearances before the applicant’s hiring commits a misdemeanor of the third degree.

Agencies are reminded that the Child Abuse clearance information is confidential and may not be released to other individuals.

Can an employer or organization institute additional standards?

Yes, nothing prohibits the employer or person responsible for a program, activity or service from making employment, discipline or termination decisions or establishing additional standards as part of the hiring or selection process for employees or volunteers.

Can child abuse clearances be transferred?

Yes, if the clearance was obtained from employment purposes. If the child abuse history clearance

is current, the employee may use their clearance, designated for employment, to (1) apply for employment (2) Serve as an employee (3) Apply as a volunteer; and (4) serve as a volunteer. Child Abuse History clearances obtained for volunteer purposes may only be used for volunteer purposes.

Can FBI Criminal History clearances be transferred?

In certain circumstances. The FBI Criminal History clearances are only transferrable if the employee would still be using a Department of Human Services service code. For example: (1) an employee moves from one certified child care setting to another or (2) will continue to work as an “employee over the age of 14 years of age and have contact with children” but merely changes employers. Also, an FBI Criminal History clearance obtained for volunteer purposes may only be used for volunteering. If the applicant wants a clearance that is

transferrable for employment and volunteering, then it is recommended that an employment service code be used so that an employment clearance can be obtained.

Is the FBI Criminal History clearance able to be transferred between the Department of Human Services and the Pennsylvania Department of Education?

No. FBI Criminal History clearances obtained through the Department of Human Services are not able to be transferred to the PA Department of Education or vice versa.

We are an employer located outside of Pennsylvania but have employees working within Pennsylvania. What are the clearance requirements?

If you employ out-of-state employees, they are still required to obtain all required Pennsylvania clearances.

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