



**TO:** Executive Directors of Voluntary Provider Agencies  
Directors, Developmental Disabilities Regional Offices  
Directors, Developmental Disabilities State Operations Offices  
Provider Associations

**FROM:** Barbara Brundage *BB*  
Director, Regulatory Affairs Unit

**SUBJECT:** Background checks for employees of contractors, including registered providers

**DATE:** November 4, 2013

**Suggested distribution:**

Administrators of certified programs of voluntary providers  
DDSOO administrators  
Registered providers administrators

**Purpose:**

To provide further guidance on conducting required background checks on employees of contractors, including registered providers.

**Background:**

The Statewide Central Register of Child Abuse and Maltreatment maintains records of “indicated” reports of child abuse and maltreatment. If an agency requests an SCR check it will receive information from SCR about “indicated” reports concerning the applicant.

For many years, programs that are certified or operated by OPWDD have been required to request SCR checks for applicants with the potential for regular and substantial contact with children. The law requiring SCR checks for applicants (Section 424-a of the Social Services Law) was changed by the Protection of People with Special Needs Act (PPSNA) effective June 30, 2013 to require SCR checks for applicants with the potential for regular and substantial contact individuals receiving services of any age.

OPWDD issued a memorandum discussing the new requirements on June 27, 2013. The memo can be found on OPWDD’s website at:

[http://www.opwdd.ny.gov/opwdd\\_resources/incident\\_management/justice\\_center/Change in Requirements](http://www.opwdd.ny.gov/opwdd_resources/incident_management/justice_center/Change_in_Requirements)

**The new law also requires programs which are operated or certified by OPWDD to request SCR checks for employees of contractors which provide goods and services to such programs, who have the potential for regular and substantial contact with individuals receiving services.**

The PPSNA also added two new background check requirements:

- Staff Exclusion List (SEL) check: A request must be submitted to the Justice Center for a check against the SEL. This is a statewide register which contains the names of individuals (e.g., employee, volunteer, intern, consultant, contractor) found responsible for serious or repeated acts of abuse and neglect that occurred on or after June 30, 2013.
- MHL 16.34 check: A request must be submitted to OPWDD for a check of information about substantiated abuse or neglect reports concerning the applicant (for allegations that occurred prior to June 30, 2013). (See information at: <http://www.opwdd.ny.gov/node/4843>)

Requirements for criminal background checks (CBC) have been in effect since 2005. Effective June 30, 2013, the CBC requests are submitted to the Justice Center instead of OPWDD.

Registered providers are entities that provide transportation services or staff under a contract with OPWDD or a voluntary provider. Registered providers request criminal background checks for their employees who have regular and substantial contact with individuals receiving services pursuant to 14 NYCRR subdivision 633.22(n) of OPWDD regulations. Effective June 30, 2013, these CBC requests must be submitted to the Justice Center.

Registered providers are also required and authorized to submit requests for the Staff Exclusion List (SEL) check and the MHL 16.34 check for their employees who have the potential for regular and substantial contact with individuals receiving services. Please see the information on the OPWDD website for information on conducting these checks.

Programs certified or operated by OPWDD must request CBC, SEL, and MHL 16.34 checks for employees of contractors that are not registered providers.

Information about the SEL check, the MHL 16.34 check and the CBC can be found on the OPWDD website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov).

### **SCR background check requirements for new employees of contractors, including registered providers:**

Unlike the process for criminal background checks, registered providers are not authorized to request SCR checks for its employees. The state (OPWDD) and voluntary certified providers are required to request SCR checks for employees of contractors. This includes employees of registered providers who have the potential for regular and substantial contact with individuals receiving services. The state (OPWDD) and voluntary providers should use the same process to request SCR checks for these employees as detailed in the June 27, 2013 memo discussed above. Providers must obtain all of the employee information and forms from contractors, including registered providers, that are necessary to submit the SCR check.

Providers must inform contractors, including registered providers, that these new employees are not permitted to have unsupervised contact with individuals receiving services until the provider has completed the SCR check and the provider informs the contractor that the new employee may have unsupervised contact with the individuals.

Employees of registered providers, like all persons subject to the SCR, SEL and MHL 16.34 check, are not permitted to have unsupervised contact with individuals receiving services while the results of the checks are pending.

**Employees of registered providers hired on or after June 30, 2013:**

Please note that the new requirements for background checks, including changes to the SCR check, went into effect on June 30, 2013. In the event that employees of registered providers who have the potential for regular and substantial contact with individuals receiving services were hired on or after June 30, 2013, a request for an SCR check for these employees should be submitted by the state (OPWDD) or the voluntary provider as soon as possible. As detailed in the June 27, 2013 memo, these new employees are not permitted to have unsupervised contact with individuals receiving services until the results of the SCR check are received.

Similarly, in the event that a registered provider has not yet submitted requests for the SEL check and MHL 16.34 check for these employees, the registered provider should submit the requests as soon as possible. Likewise, these new employees are not permitted to have unsupervised contact with individuals receiving services until the results of all required checks are received.

For any question about requirements concerning background checks, please contact the Division of Quality Improvement at (518) 474-3625, or email questions to [quality@opwdd.ny.gov](mailto:quality@opwdd.ny.gov)