



**Office for People With  
Developmental Disabilities**

# Required Background Checks for Registered Providers

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# OPWDD Registered Providers

- Please send any questions during the presentation to the following email address:
- [Regprovider.approvals@opwdd.ny.gov](mailto:Regprovider.approvals@opwdd.ny.gov)

# OPWDD Registered Providers

- Pursuant to 14NYCRR 633.22(o)(1), agencies providing certified and HCBS waiver services may contract with certain providers of service only if that provider is an authorized provider. The Registered Provider list includes those providers that have submitted an application for registration and have agreed to certain terms as established by OPWDD as a condition of registration. This list can be found at: [http://www.opwdd.ny.gov/opwdd\\_resources/opwdd\\_forms/opwdd\\_criminal\\_background\\_check/registered\\_locations](http://www.opwdd.ny.gov/opwdd_resources/opwdd_forms/opwdd_criminal_background_check/registered_locations)

# Becoming an active Registered Provider

- To be an active OPWDD Registered Provider you will need to complete the OPWDD 108 Form, Registered Provider Approval Request Form (revised 9/2014) which can be found on the OPWDD website. [http://www.opwdd.ny.gov/opwdd\\_resources/opwdd\\_forms/home](http://www.opwdd.ny.gov/opwdd_resources/opwdd_forms/home)
- It is also the responsibility of the registered provider agency to inform OPWDD of any changes in contract, i.e. additional contracts, change in contract dates, etc.
- If your agency no longer has a current contract you would become “inactive” in our system until you can supply a new OPWDD 108 Form showing an updated contract and that is verified by OPWDD.

# Becoming an active Registered Provider

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- It is also the responsibility of the registered provider agency to inform OPWDD of any changes in contract, i.e. additional contracts, change in contract dates, etc.
- If your agency no longer has a current contract you would become “inactive” in our system until you can supply a new OPWDD 108 Form showing an updated contract and that is verified by OPWDD.

# Required Background Checks:

- Staff Exclusion List (NYS JC)
- Criminal Background Check (NYS JC)
- MHL 16.34 (OPWDD)
- SCR (OPWDD)

OPWDD's Background Check Cheat sheet:

<http://www.opwdd.ny.gov/node/5115>

# Required Background Checks:

- Registered providers should also note that the new background check requirements applied to employees that were hired (or assumed duties that involved regular and substantial contact with individuals receiving services in the OPWDD system) on or after June 30, 2013. If the new background checks (SEL, MHL 16.34 and SCR) have not yet been requested for these employees, the registered provider must submit the requests as soon as possible. In addition, these employees may not be permitted to have unsupervised contact with individuals receiving services until the results of the checks are received.

# Staff Exclusion List

The Justice Center maintains a statewide register known as the Staff Exclusion List (SEL) which contains the names of individuals (e.g., employee, volunteer, intern, consultant, contractor) found responsible for serious or repeated acts of abuse and neglect. Individuals on the Staff Exclusion List (SEL) will be prohibited from being hired by OPWDD Providers. This is the first check that providers should complete for their applicants.

# Staff Exclusion List

- SEL Check procedure:
- 1. Complete and submit an Authorized Person Designation Statement Form. Be sure to include the provider identification number or agency code issued by the Provider's State Oversight Agency where requested on the Form.
- Most Providers required to check the SEL should submit the form found on the following link: [Authorized Person Designation Statement Form Justice Center Staff Exclusion List \(SEL\) Check](#)
- Within three business days upon the Justice Center's receipt of a fully completed AP form which includes a legible email address for the AP and accurate provider identification/agency code, the Authorized Person will receive an email with a link to the SEL online webform and instruction to conduct all SEL check requests online.
- 3. When the AP enters the applicant's information and submits the SEL check request in the online webform a confirmation number is generated. A response will be sent from [VPCR.Notification@justicecenter.ny.gov](mailto:VPCR.Notification@justicecenter.ny.gov) on the same day that the SEL check request is submitted.

# Staff Exclusion List

- SEL Check procedure:
- If you have submitted an AP form for SEL checks and your email address is not accepted in the SEL check online webform or not all of your programs are included in the webform, please send an email describing the issue to [cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov) with the AP name, email address and Provider name.
- 5. A Social Security Number (SSN) or Alien Registration Number (ARN) is required to conduct a SEL check request via the online webform. The regulation, 14 NYCRR Part 702, provides the authority to collect SSN for applicants subject to a SEL check. If an applicant has a SSN or ARN, it must be provided if they are seeking a position that requires a check of the SEL.
- 6. If an applicant does not have a SSN or ARN, please complete and submit the form found at the following link to [cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov) to initiate the manual SEL check request process.
- <http://www.justicecenter.ny.gov/investigations-prosecutions/cbc/forms/rselc>

# Justice Center Criminal Background Check Unit

Registered Provider Training

February 24, 2016

# Agenda

- Statutory and Regulatory Authority
- Who must be printed?
- Who shall request a Criminal Background Check (CBC)?
- Responsibilities of Authorized Person (AP)
- Types of determinations
- Temporarily Approved Applicants
- What's New?
- Questions?

# AP Responsibilities

1. Check SEL
2. Provide Applicant certain information
3. Request CBC for each Subject Individual
4. Maintain certain information
5. Update change of status in CBC system
6. Have a policy to implement the regulation

# Contact Info

- CBC Unit 518 549-0361  
[cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov)

# Providers CBC Statutory & Regulatory Authority

- Mental Hygiene Law (MHL) §16.33
- Executive Law §845-b
- Executive Law §553(5)
- 14 NYCRR Part 701 Justice Center
- 14 NYCRR Part 633.22 OPWDD

# Who must be printed?

- Prospective Employees
- Prospective Volunteers
- Operators

# Who must be printed?

- 14 NYCRR Part 701.4(h): "Prospective employee" means any person to be employed or utilized by a Provider who will have ***regular and substantial unsupervised or unrestricted physical contact*** with service recipients

# Who must be printed?

- 14 NYCRR Part 701.4(i): "Prospective volunteer" means a person who has applied to participate in activities with a Provider, under the supervision of staff or management of the Provider, for which he or she receives no salary or remuneration, who will have ***regular and substantial unsupervised or unrestricted physical contact*** with service recipients

# Who must be printed?

- 14 NYCRR Part 701.4(k): "Operator" means any natural person with an ownership interest in a Provider
- 14 NYCRR Part 701.4(n): Those who must be printed are also known as "Subject Individuals"

# Who is responsible for requesting the CBC?

- 14 NYCRR Part 701.5(d)(5): The Authorized Person shall be responsible for requesting the CBC for each Subject Individual

# Who is responsible for requesting the CBC?

- 14 NYCRR 701.5(d)(2): Before a Provider can request a CBC, it must designate an Authorized Person (AP)
- The AP must complete the **Authorized Person Designation and Sworn Statement Form** that shall be submitted to and maintained by the Justice Center

# Authorized Person Designation and Sworn Statement Form for CBC (Fillable form - Revised 9/2015)

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p>	<p><b>Justice Center for the Protection of People with Special Needs</b></p>	<p style="text-align: center;"><b>Authorized Person Designation/Notarized Sworn Statement Form</b></p> <p style="text-align: center;"><b>Justice Center Criminal Background Check (CBC) Unit</b></p> <p style="text-align: center;">Fax: 518-549-0464 Email: <a href="mailto:cbc@JusticeCenter.ny.gov">cbc@JusticeCenter.ny.gov</a></p>	<p><b>REQUIRED</b></p> <p>Provider Name: <input style="width: 100%;" type="text"/></p> <p>Agency Code: <input style="width: 100%;" type="text"/></p> <p>Address: <input style="width: 100%;" type="text"/></p> <p>City: <input style="width: 70%;" type="text"/>, NY Zip <input style="width: 20%;" type="text"/></p> <p>Telephone Number: <input style="width: 100%;" type="text"/></p> <p>Fax: <input style="width: 100%;" type="text"/></p> <p>State Oversight Agency: <input type="checkbox"/> OMH  <input type="checkbox"/> OPWDD <input type="checkbox"/> OCFS          (Please check all that apply)</p>
<p><b>INSTRUCTIONS:</b></p> <ol style="list-style-type: none"> <li>1. Please complete all Parts of this form, including top right corner and check the State agency for which you are a provider.</li> <li>2. The Authorized Person must sign Part 1 in the presence of a Notary Public. The Director of the Provider Agency must sign Part 2 and date this form where indicated.</li> <li>3. Please submit one form for each Authorized Person.</li> <li>4. Please return the completed form to the Justice Center.</li> </ol>			
<p><b>Part 1. Authorized Person (Please Print)</b></p>			
Last Name: <input style="width: 90%;" type="text"/>	First Name: <input style="width: 90%;" type="text"/>	M. I.: <input style="width: 20%;" type="text"/>	

# AP Responsibilities

## 1. Check the Staff Exclusion List

14 NYCRR 701.5(d)(1)



**Justice Center for the  
Protection of People  
with Special Needs**

**Authorized Person  
Designation Form  
Justice Center Staff Exclusion List  
(SEL) Check  
Criminal Background Check Unit  
Fax: 518-549-0464  
Email: [cbc@JusticeCenter.ny.gov](mailto:cbc@JusticeCenter.ny.gov)**

The purpose of this form is to designate the Authorized Person for your agency who will be permitted to request, on behalf of the Provider Agency, a check of the Staff Exclusion List (SEL) pursuant to relevant statutory authority. By signing this form, each signatory attests that all requests made by the Authorized Person for a check of the SEL by the Justice Center on each prospective employee, volunteer, consultant or natural person operator ("subject individual") will be made in conformance with the law.

### **INSTRUCTIONS:**

1. Please complete all Parts of this form.

# AP Responsibilities

## 2. Provide Applicant Certain Information

14 NYCRR Part 701.5(d)(6)(iii): Provide and ensure the Applicant completes the **Applicant Consent Form for Fingerprinting**

# Applicant Consent Form



**Justice Center for the  
Protection of People  
with Special Needs**

**Applicant Consent Form for  
Fingerprinting for Justice Center  
Criminal Background Check  
(CBC) Unit**

5. I have been advised that the results of the criminal history information check forwarded to the Justice Center by DCJS and the FBI shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall only be disclosed to persons authorized by law. Criminal history information will be considered pursuant to Article 23-A of the NYS Correction Law in making hiring determinations.
6. I affirm that the fingerprints submitted will be my own and that the information I have provided is true, complete and accurate.
7. I certify to the best of my knowledge that I: (check as appropriate)
  - have been convicted of a crime in New York State or any other jurisdiction.
  - have pending arrest charges.If checked, provide details:

# AP Responsibilities

## 2. Provide Applicant Certain Information

14 NYCRR Part 701.5(6)(iii)(a): Advise Applicants of the right and *the procedures necessary* to obtain, review and seek correction of his or her criminal history record in accordance with regulations of the NYS Division of Criminal Justice Services and the Federal Bureau of Investigation

- Ensure that Applicant has been given the **Personal Criminal History Information Review form**

# Personal Criminal History Information Review



Justice Center for the  
Protection of People  
with Special Needs

Personal Criminal History  
Information Review

Pursuant to Executive Law 845-b, a Provider seeking to hire an individual who will have regular and substantial, unsupervised and unrestricted contact with service recipients must advise the Applicant of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information.

The NYS Division of Criminal Justice Services (DCJS) allows an individual, or an individual's attorney who has been authorized in writing, to obtain either a copy of all criminal history information maintained on file at DCJS pertaining to that individual, or a response indicating that there is no criminal history information on file. The individual may also challenge the accuracy of the information through procedures established by DCJS. To obtain further information on the criminal history review process, please visit the DCJS website:

<http://www.criminaljustice.ny.gov/ojis/recordreview.htm>

# AP Responsibilities

3. Request a CBC for each Subject Individual

14 NYCRR Part 701.5(d)(5): to register correctly ensure that ***demographic information*** required to register an applicant for fingerprinting with MorphoTrust is submitted either online or on the phone

14 NYCRR Part 701.5(d)(6)(iii)(e): ensure that current mailing and/or home address is provided

# Required Demographic Info

## Applicant Demographic Data

Date of Birth (MMDD/YYYY) *	Age *	Gender *	Height *	Weight *
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/> ft. <input type="text"/> in.	<input type="text"/>
Race *	Ethnicity *	Skin Tone	Hair Color *	Eye Color *
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Place of Birth *	Citizen Country *	Social Security Number		
<input type="text"/>	United States <input type="text"/>	<input type="text"/>		

*After You Have Entered All Required Information ---->*

Send Information

# Required Address Info

## Applicant Information

### Instructions

Items marked with an \* are required. A red exclamation mark will appear to the right of any field that has an error. Click on the exclamation mark for a description of the error.

### Applicant Name

Prefix ▼	First Name * d	Middle Name	Last Name * k	Suffix ▼
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### Applicant Alias or Maiden Name

Prefix ▼	First Name	Middle Name	Last Name	Suffix ▼
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[Add Alias](#) (up to 5)

### Applicant Home Address

Number * ▼	Direction ▼	Street Name *	
Unit Designator ▼			
Country * United States ▼	City *	State * ▼	Zip Code *

### Methods of Contact

Daytime Phone Number *	Daytime Phone Type * ▼
Evening Phone Number	Evening Phone Type ▼
Email	Email Confirmation

# AP Responsibilities

3. Request a CBC for each Subject Individual

14 NYCRR 701.5(d)(2)(ii): submit a summary of the specific ***job duties*** of the subject individual that permit the Provider to request a CBC

Job duties should indicate how Applicants will have ***regular and substantial unsupervised or unrestricted physical contact*** with service recipients

# Job Duties

*If the Provider is licensed by both a Justice Center-covered Agency (OMH, OPWDD, OCFS) and OASAS, the provider may request a waiver so that an applicant only needs to be fingerprinted once, either by a Justice Center-covered agency or OASAS, and the other agency agrees to waive the fingerprinting requirement. Please check this box if such a waiver is requested and the applicant will receive separate employment determinations by the Justice Center and OASAS.*

Applicant Type \*

Hiring Category \*

Position Category \*

Job Duties \*

*Please enter detailed information about the job duties that indicate **how** the applicant will have direct and substantial unsupervised contact with persons receiving services/care and to what degree.*

# How to Register an Applicant

- Guidance for Providers - Pre-Employment Checks tab on the Justice Center website:

OPWDD Providers: Please note to register an applicant with MorphoTrust you will need the following information:

ORI: NY922170Z and the provider ID. **If the correct ORI is not used, the applicant will have to be re-fingerprinted.**

- [OPWDD Voluntary Provider ID list](#)
- [OPWDD Registered Provider ID list](#)  
**OPWDD Registered Providers must include the R in front of their Provider ID when registering online with Identogo when prompted for a Provider ID.**
- [Fingerprint Registration Guidance for OPWDD Providers](#)
- Link to Identogo website: <http://www.identogo.com/>
- [Fingerprint Reject Guidance](#)
- [Ink and Roll Card Procedures](#)
- [Card Scan Information Form](#)

# AP Responsibilities

4. Maintain Certain Information
  - 14 NYCRR Part 701.8(a)(1)(ii): Maintain **Applicant Consent Form for Fingerprinting** and the **CBC results** with regard to the employment or volunteer service of the subject individual
  - 14 NYCRR 701.8(c)(1): Maintain for 6 years after the subject individual is no longer employed or volunteers

# AP Responsibilities

5. Update Change of Status in CBC system

14 NYCRR Part 701.8(b): Provider must

update the employment status of subject individuals that have been hired, not hired, no longer employed, application withdrawn, etc. within 14 days of the change in status

- The notification requirements also assist in regulatory compliance audits

# AP Responsibilities

6. Have a policy to implement the regulation 14 NYCRR Part 701.8(c)(1): Each provider shall have policies and procedures designed to implement the provisions of this regulation
- A sample policy is available on the Justice Center website

# Link to Sample Policy on CBC dropdown on Pre-Employment Checks tab

Please be advised that the Justice Center regulation concerning CBC is 14 NYCRR Part 701 and is found on the Resources tab of the Justice Center website or the following link:

<http://www.justicecenter.ny.gov/regulations-guidance/regulations/adopted/icchic>

It requires Providers to implement a policy/procedure designed to implement the provisions of the regulation.

In particular, a Provider's policy/procedure should address:

- criminal history requests as well as actions taken in response to the CBC determination, *please see 14 NYCRR 701.5 and .6 for specific requirements;*
- the temporary approval of applicants pending the results of the CBC, *please see 14 NYCRR 701.5 (f) for specific information to include;*
- safety assessments upon receipt of a subsequent arrest notification, *please see 14 NYCRR 701.7(b) for specific information to include;* and
- responsibilities concerning record keeping, notifications to the CBC system concerning the change in status of an applicant or subject individual and disposal of information, *please see 14 NYCRR 701.8 for specific information to include.*

[The Justice Center has prepared a Draft Sample CBC policy and procedure for Providers consideration.](#)

# Justice Center Determinations

## Criminal Background Checks

- Not Denied – NonIdent
- Not Denied – No Criminal History
- Not Denied – Criminal History
  - FBI Only
  - Insufficient Court Supplied Information
- Not Denied – Not Held in Abeyance
- Held in Abeyance
- Denied

# Justice Center Determinations Criminal Background Checks

Other types of determinations that an AP will see:

- Criminal History
- None – Being Processed

# Justice Center Determinations

## Criminal Background Checks

- Not Denied - Non-Ident and Not Denied – No Criminal History:

These determinations indicate that the Applicant has either never been fingerprinted, civilly or criminally, or has been printed but has no reportable criminal history. The Provider may consider this individual for employment in the direct care position

# Justice Center Determinations

## Criminal Background Checks

- Not Denied – Criminal History

This determination means that the Applicant has a criminal history. If the charge or conviction occurred in New York, the AP(s) will be provided with a summary. If the charge or conviction occurred outside of New York State, the Justice Center is prohibited by the FBI from sharing that information to the Provider. In either scenario, the APs will be notified of the decision via a correspondence uploaded into the CBC system.

# Justice Center Determinations

## Criminal Background Checks

- Not Denied – Criminal History: Insufficient Court Supplied Information:

This determination means that the Applicant's criminal history record includes a criminal charge for which the Justice Center cannot determine the disposition. However, we have completed the required NYS Correction Law Article 23-A analysis and have cleared the Applicant for the Provider's consideration for employment. The AP(s) will be notified of the decision via a correspondence uploaded into the CBC system.

# Justice Center Determinations Criminal Background Checks

- Not Denied – Not Held in Abeyance

This determination means that the Applicant's criminal history record includes a pending criminal charge. However, we have completed the required NYS Correction Law Article 23-A analysis and have cleared the Applicant for the provider's consideration for employment. The Provider will be notified of the decision via a correspondence uploaded into the CBC system.

# Justice Center Determinations

## Criminal Background Checks

- Held in Abeyance

This determination means that the Applicant's criminal history record includes a pending criminal charge. If the charge is a felony offense, Executive Law §845-b requires that the application be held in abeyance pending the outcome of the charge. The CBC Unit maintains discretion to hold an application in abeyance pending the outcome of an open misdemeanor charge. The Provider will be notified of the decision via a correspondence uploaded into the CBC system.

# Justice Center Determinations

## Criminal Background Checks

- Denial

If the CBC Unit issues a “denial,” the Provider may not hire the subject individual in the direct care position for which the AP requested the criminal background check

The Provider will be notified of the decision via a correspondence uploaded into the CBC system

# Justice Center Determinations Criminal Background Checks

## Denial (continued)

If the Provider receives a “denial” determination, Executive Law §845-b requires the Provider to notify the subject individual that employment was denied and that the criminal history was the basis of the denial

Upon written request from the Applicant, the Provider must furnish a copy of the reported criminal history summary

# Justice Center Determinations Criminal Background Checks

- Criminal History

If the CBC Unit is considering directing the Provider to deny employment based on an Applicant's criminal history, we must request *evidence of rehabilitation* directly from the Applicant

This request is sent via US Postal Service Certified Mail to the address provided for the Applicant during the fingerprinting registration process

# Justice Center Determinations

## Criminal Background Checks

### Criminal History (continued)

Certified mailing requires a signature for delivery. If the Applicant is not available to sign for the letter, the Post Office will leave a notice advising the intended recipient that he/she must arrange for delivery or pick up of the letter.

If the letter is not claimed in a timely manner, the Post Office will return the letter to the CBC Unit.

# Justice Center Determinations

## Criminal Background Checks

### Criminal History (continued)

If the Applicant does not claim the Certified letter, or if the CBC Unit cannot determine that it has been received by the Applicant, we will send to the AP the Applicant's reportable criminal history via a correspondence uploaded into the CBC system and an e-mail.

The Provider must review the criminal history, advise the CBC Unit that it is still interested in the Applicant, verify the Applicant's address, and request that the letter be resent to the Applicant. This can be done by responding to the CBC Unit's e-mail notification.

# Justice Center Determinations

## Criminal Background Checks

- None – Being Processed

CBC System update to “None-Being Processed” means one of two things:

1. The CBC Unit is considering directing the Provider to deny employment based on an Applicant’s criminal history and we are requesting *evidence of rehabilitation* directly from the Applicant; or
2. The Applicant’s criminal history record includes a criminal charge for which the CBC Unit cannot determine the disposition and we have reached out to the Applicant to provide disposition information on the charges

# Justice Center Determinations

## Criminal Background Checks

- None – Being Processed (continued)

In either of the aforementioned situations – a determination has not yet been issued on the subject individual's suitability for employment

The Provider may not hire the subject individual in the position for which the criminal background check was requested

The Provider may only move forward with a hiring decision if a determination has been issued for the subject individual

# Subsequent Arrest

- 14 NYCRR Part 701.7: Upon receiving notification of a subsequent arrest, the Provider shall take any and all appropriate action to protect the health, safety and welfare of service recipients and document such action

Safety Assessment Requirements

# Temporarily Approved Subject Individuals

14 NYCRR Part 701.5(f): For subject individuals conditionally hired pending the results of the CBC, Providers must have policies and procedures to ensure adequate supervision of the temporarily approved employee/volunteer

- Such policies and procedures shall address the need for supervisor to monitor the activities of the temporarily approved prospective employees or volunteers in order to protect the health, safety and welfare of service recipients, taking into consideration:

# Temporarily Approved Subject Individuals

- the nature of the environment (e.g., physical plant considerations)
- staffing patterns
- employee responsibilities and
- the characteristics of the service recipients

# Policy for Temporary Approvals

- 14 NYCRR Part 701.5(f)(2)(i): The Providers' policy shall require that temporarily approved subject individuals assigned to personal care activities which require privacy for people receiving services are:
  - 1) supervised by a supervisor with at least 6 months experience with the Provider; and
  - 2) the supervisor is always present in the same room with the subject individual while such personal care activities are occurring

# Temporarily Approved

- 14 NYCRR Part 701.5(f)(2)(ii): The Provider shall prevent any person with a conviction or pending charge for one or more of the following from being temporarily approved:
  - a felony sex offense;
  - a felony within the past ten years involving violence;
  - abandoning a child and/or endangering the welfare of an incompetent, physically disabled or vulnerable elderly person pursuant to Penal Law §§ 260.00, 260.25, 260.32 or 260.34; or
  - any comparable offense in any other jurisdiction

# Temporarily Approved

- 14 NYCRR Part 701.5(f)(2)(iii): The procedure must provide that, in cases where the temporarily approved subject individual has a pending felony charge, other than as specified in the last slide, or any pending misdemeanor charge, the Provider must document its reasons for granting temporary approval, including an explanation as to why such action will not place service recipients at risk of harm

# What's New?

- New York State Law at Executive Law §845-b and Justice Center Regulations at 14 NYCRR Part 701 require the Provider to notify the Justice Center of employment status changes within 14 days of the date of change. Providers have been advised that status changes must be made in the CBC system.

# What's New?

- In order to facilitate timely updating of the subject individual's employment status in accordance with statutory and regulatory requirements, we recently changed the e-mails sent to AP(s)
- Instead of containing determinations and correspondence, the e-mails now notify the AP(s) that the CBC Unit has made a determination on suitability for employment and that they will have to enter the CBC system to review the decision

# What's New?

In 2016, the CBC Unit will be furthering its efforts to ensure that each Provider is in compliance with statutory and regulatory requirements. For example:

- CBC Unit is implementing processes to reach out to every OPWDD Provider to ensure that the employment status of each subject individual is accurate
- We will continue to work closely with OPWDD's Division of Quality Improvement to ensure that newly hired auditors have the tools that they need to effectively monitor for regulatory compliance

- Questions?

# Mental Hygiene Law (MHL) 16.34

- Mental Hygiene Law (MHL) 16.34 became effective June 30, 2013 as part of the Protection for People with Special Needs Act (PPSNA)
- MHL 16.34 is applicable only to prospective employees and volunteers, deemed employees who apply on and after June 30<sup>th</sup>, 2013
- If a CBC is requested, then an MHL 16.34 check is required.
- Registered Providers (Temp agencies and Transportation agencies, etc.) are fully required to submit MHL 151/152 forms for all employees who will work under their agency's contracts with OPWDD DDSOs and affiliated voluntary providers.

# Mental Hygiene Law (MHL) 16.34

- MHL 151/152 forms should be submitted by an agency's Authorized Person
- Must be the same person authorized to submit CBC requests
- Form to establish authorized person is submitted to the NYS Justice Center for the Protection of People With Special Needs (JC)

# MHL 16.34

- Here is a link to our Webinar on the MHL process:

<http://www.opwdd.ny.gov/node/4974>

- Memo with Link to Form 151:

<http://www.opwdd.ny.gov/node/4637>

- All MHL Forms:

[http://www.opwdd.ny.gov/opwdd\\_resources/incident\\_management/justice\\_center/mental\\_hygiene\\_law\\_1634/mhl-forms](http://www.opwdd.ny.gov/opwdd_resources/incident_management/justice_center/mental_hygiene_law_1634/mhl-forms)

# MHL 16.34

## Some General Tips on MHL:

- If an applicant has previously worked for a temp/staffing agency that sent the applicant to work at agencies under the regulatory authority of OPWDD (ARCs, UCPs, Catholic Charities, etc.), the prospective employee should list only the temp agency as their employer, not the agencies that the temp agency sent them to work at.
- Please ask all applicants if they have ever been known by a different name.
- Please avoid using initials when reporting names of current or former employers for your applicants.

# MHL 16.34

- Always feel free to call with any questions. If you feel something is not right with a request you submitted, you should call.
- Please contact the MHL unit within IMU at (518) 473-7032
- Please feel free to e-mail any issues at [mhl.check@opwdd.ny.gov](mailto:mhl.check@opwdd.ny.gov)

# Mental Hygiene Law (MHL) 16.34



**NEW YORK**  
STATE OF  
OPPORTUNITY.

**Office for People With  
Developmental Disabilities**

### FORM OPWDD 151

Request for MHL 16.34 - Abuse/Neglect History Check: This form must be submitted to OPWDD for all prospective employees and volunteers in the OPWDD system. The form must be submitted by all certified and non-certified programs and registered providers.

The purpose of this form is to request that OPWDD conduct a check of records of substantiated allegations of abuse and neglect that occurred or were discovered prior to June 30, 2013 and that involved the applicant. This supplements the check of the "Staff Exclusion List" (SEL) requested from the Justice Center which concerns substantiated abuse and neglect that occurred on or after June 30, 2013.

1. Date Of Submission:	<input type="text" value="2/19/2016"/>
2. Applicant Name:	Last Name <input type="text"/> First Name <input type="text"/> Middle Initial/Name <input type="text"/>
3. Applicant SSN or Alien Registration Number:	<input checked="" type="radio"/> SSN <input type="text"/> <input type="radio"/> A# <input type="text"/> <input type="radio"/> INTERNATIONAL VOLUNTEER. Applicant attests to possessing <b>neither SSN nor</b> Alien Registration Number.
4. Applicant DOB:	<input type="text"/>
5. Authorized Person Name:	Last Name <input type="text"/> First Name <input type="text"/> Middle Initial/Name <input type="text"/>
6. Authorized Person Email Address:	<input type="text"/>
7. Provider of Services Name:	<input type="text"/>
8. Is the Provider a Registered Provider?:	<input type="radio"/> Yes <input type="radio"/> No ( note that Registered Providers are required to submit requests for MHL 16.34 checks.)
9. Program TYPE:	Select Program Type <input type="text"/>
10. Applicant IS:	<input type="radio"/> Prospective Employee <input type="radio"/> Prospective Volunteer <input type="radio"/> "Deemed" Employee
11. Was an SEL Request Submitted:	<input type="radio"/> Yes <input type="radio"/> No
12. Was A CBC Request Submitted, or Will One be Submitted?	<input type="radio"/> Yes <input type="radio"/> No

# Mental Hygiene Law (MHL) 16.34

FORM OPWDD 152 (8/2013)

<p><b><u>INSTRUCTIONS:</u></b>          This form is to be completed by a prospective employee or volunteer. Complete all fields. If exact dates are not known, give approximate dates. Submit the completed form to your potential employer or organization with which you are applying to volunteer.</p>		<p>State of New York  <b>OFFICE FOR PEOPLE WITH          DEVELOPMENTAL DISABILITIES</b>   <b>APPLICANT INFORMATION</b></p>	
1. NAME			
2. SOCIAL SECURITY NUMBER		3. DATE OF BIRTH	
4. MAILING ADDRESS (include Street Address, Apt. #, City, State, Zip and County)			
5. PROVIDER OF SERVICES NAME			
6. List complete employment history for the past 7 years, including the start and end date. Begin with the most recent employment and list employers in chronological order. Use an additional sheet if needed.			
Full Name of Employer	Location (e.g., city, state)	Start Date	End Date

# Mental Hygiene Law (MHL) 16.34

FORM OPWDD 152 (8/2013) - APPLICANT INFORMATION  
PAGE 2 OF 2

7. List all employment history serving people with developmental disabilities that occurred beyond 7 years. Write "none" if there is no history. Use an additional sheet if needed.			
Full Name of Employer	Location (e.g., city, state)	Start Date	End Date

  

8. List all volunteer work for the past 7 years and volunteer work serving people with developmental disabilities at any time. Write "none" if there is no history. Use an additional sheet if needed.			
Full Name of Agency/Organization	Location (e.g., city, state)	Start Date	End Date

  

I CERTIFY that the information provided in this form is true and correct to the best of my knowledge and belief, and authorize investigation of all information given.

The provision of false information is grounds for dismissal.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_



# State Central Registry of Abuse and Maltreatment (SCR)

- 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.
- 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)

# State Central Registry of Abuse and Maltreatment (SCR)

- SCR Checks are required for the following services in the OPWDD system:
  - All state operated services (whether or not the program is certified).
  - All certified facilities operated by voluntary providers, and
  - All family care homes (both state sponsored and agency sponsored)
- 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.

# State Central Registry of Abuse and Maltreatment (SCR)

Effective January 2, 2014 OPWDD instituted a change in the requirements and procedures concerning SCR checks for subject parties (e.g. employees) of registered providers.

The registered provider must complete OPWDD 159 Form OPWDD Registered Provider Request for Statewide Central Register Database Check. The OPWDD Form 159 is on the OPWDD website at: [www.opwdd.ny.gov](http://www.opwdd.ny.gov). Click on the Justice Center logo and look under “Pre-employment checks.” The authorized person (the person who is authorized to submit CBC requests) will complete the OPWDD 159 with the necessary information supplied by the subject party.

# OPWDD Form 159

- We do not accept OPWDD 159 forms that are handwritten. They have to be typed.
- The form has to include all names that the applicant has been known by.
- The form has to include all current household members, their relationship to the applicant and their date of birth.
- The form has to include 28 years of address history for the applicant even if they lived out of the country for part of that time.
- The applicant must sign the OPWDD 159 twice. Once to state that the information provided is accurate and the second time allows OPWDD to submit the request to OCFS.
- The authorized person for the agency must also sign.

# OPWDD Form 159

- Signatures have to be within 2 weeks of submission date to OPWDD.
- The agency's accurate name and provider information needs to be on the form.
- Please only send one request per email.
- Please only send one request per pdf.
- We will send you the results as soon as our office receives them via email. We only send the results to the authorized person.

# Indicated Report for SCR

In the event that an indicated report exists concerning the subject party, the registered provider must obtain any additional information about the indicated report that is necessary to make a suitability determination. This information can be obtained from the Office of Children and Family Services after a release of information is signed by the applicant. The release would be sent to :

Statewide Central Registry  
PO Box 4480  
Albany, NY 12204

After obtaining all necessary information, the registered provider must make a suitability determination—a decision about whether the subject party will be allowed to have regular and substantial contact with individuals receiving services in the OPWDD system. The registered provider must also prepare a written summary documenting the suitability determination.

# Indicated Report for SCR

If the registered provider determines that the subject party is not suitable based on the information obtained as a result of the SCR check process, the registered provider may not allow the person to have regular and substantial contact with individuals receiving services in the programs which are certified or operated by OPWDD. The registered provider must also provide the subject party with a copy of the written summary documenting his/her suitability for employment.

# Contacts For Background Checks

- CBC Unit 518 549-0361 [cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov)
- Additional information about the new requirements is available on the OPWDD website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov).
- Note that the completed OPWDD Form 108 must be submitted to [Regprovider.approvals@opwdd.ny.gov](mailto:Regprovider.approvals@opwdd.ny.gov)
- For questions related to the new requirement, contact the OPWDD Incident Management Unit at: [Regprovider.approvals@opwdd.ny.gov](mailto:Regprovider.approvals@opwdd.ny.gov)
- MHL Questions: [mhl.check@opwdd.ny.gov](mailto:mhl.check@opwdd.ny.gov)
- SCR Questions: [scr.check@opwdd.ny.gov](mailto:scr.check@opwdd.ny.gov)

# Questions

