

# 430 – Criminal Background Checks

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### 1.0 Purpose

Because the William Shore Metropolitan Park District provides services to children under the age of 16, developmentally disabled persons and vulnerable adults the District needs adequate information to properly screen prospective employees and/or volunteers who have unsupervised access to these groups.

### 2.0 Definitions

*Applicant:* (1) any prospective employee who will or may have unsupervised access to children under sixteen years of age, developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization. (2) any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under the age of 12 years of age, (ii) three or fewer children between the age of 12 and 16 years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults.

*Business or organization:* a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

*Conviction record:* "conviction record" information as defined in RCW [10.97.030](#) and [10.97.050](#) relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

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*Crime against children or other persons:* a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular

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homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW [26.44.020](#); first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

*Crimes relating to drugs:* a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

*Crimes relating to financial exploitation:* a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

*Unsupervised:* not in the presence of (a) another employee or volunteer from the same business or organization as the applicant or, (b) any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

*Vulnerable adult:* vulnerable adult" as defined in chapter [74.34](#) RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW [43.43.832](#), it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

*Agency:* any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

### 3.0 Procedures

Under the Child and Adult Abuse Information Act, requests for criminal history records information (CHRI) are limited to businesses or organizations licensed in the state of Washington; any agency of the state; or other governmental entities that educate, train, treat, supervise, house or provide recreation to developmentally disabled persons, vulnerable adults or children under the age of 16.

### 3.1 Notices on Applications

The District requires proper screening of all prospective applicants. If the District determines that a particular job or volunteer position requires a clear background check, the District will indicate this as a required qualification on the job description, volunteer assignment documentation, internal job postings, outside advertisements and/or written conditional job offers. In the case of existing employees who seek transfer or promotion to such a job, this same information should be made available to them when interest in changing positions is first discussed. The provision of advance notice will help defend a claim that the background check is being unfairly applied to employees on the basis of race, gender or other factors.

RCW 43.43.834 requires an entity to notify an applicant who may be offered a position as an employee or volunteer that a background check inquiry may be made before the organization actually makes the request for a conviction record to the WSP. A signed authorization to obtain background information should be a part of the employment or volunteer application (see Attachment A). The District must require the applicant to first disclose whether he or she:

- a) *has been convicted of a crime*

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- b) *has had finding made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or*
- c) *has both a conviction under (a) of this subsection and findings made against him or her under (b) of this subsection.*

### 3.2 Obtaining Criminal Record

The District may obtain CHRI from the state patrol in two different ways.

- 1) Access the WSP website at <http://www.wsp.wa.gov/crime/crimhist.htm> and selecting the Washington Access to Criminal History (WATCH) link. This feature requires either a credit card or a pre-established account. A fee is charged for each name search regardless of the outcome of the results of the search.
- 2) Forms are available through the watch link. Return the completed background form to the WSP through the US Postal Service.

### 3.3 Screening the Criminal Record

The CHRI should be limited to the subject's conviction record. Upon receipt of the CHRI, the District will screen the conviction record for crimes which would eliminate the candidate from consideration for employment or volunteer positions as are outlined RCW 43.43.830. Once the results have been received to the District, a copy of the report must be provided to the applicant within 10 days. All information obtained from a background check should be retained in accordance with the local government retention schedule found on the Secretary of State's archive division on their website.

Under RCW 43.43.834, businesses or organizations shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited except as provided in RCW 28A.320.155. Violating this statute is subject to a civil action for damages.

### 3.4 Use Guidelines:

- **New Hires:** Background checks are required for all new hires. This includes all full-time, part-time and temporary part-time employees. The background check must be completed, and results verified **before** any employee begins work. At no time should an employee begin work until the hiring manager has verified results of the background check.
- **Rehires:** A background check is required for all rehires that have been separated for longer than 90 days.
- **Employment Contingencies:** Background checks are to be processed after a contingent offer of employment has been extended to the applicant. Note: *The offer of employment is contingent upon the successful results of the background check.*
- **Authorization by Applicant:** The candidate must authorize the background check. This is done by having the applicant complete the Background Check Release Form (Attachment A) form. This form is available to the applicant on the District website and can be sent via e-mail to the candidate as well. To expedite the process, the candidate may fax the completed and signed form to the Hiring Manager. All applicants must complete an Application for Employment and the Employment Background Authorization form as this is required to be submitted to the third-party administrator conducting the background check.

### 3.5 Verification of Background Checks

The results of the background check will be sent directly to the hiring manager. The District will review the report. If any discrepancies or criminal history are noted, the District will consult with the Executive Director for final determination. The District reserves the right to consult with legal counsel.

### 3.6 Adverse Action Notifications

The hiring manager will contact the candidate to inform him/her that the District is rescinding its contingent offer of employment and that he/she will receive written notification that the third-party administrator will

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send a summary of the candidate's rights under the Fair Credit Reporting Act. The third-party administrator will give the candidate the opportunity to review a copy of the report, which informs him/her of his/her rights to dispute inaccurate information.

### **3.7 Offer of Employment Process**

When verbally making the offer of employment to the successful candidate, the hiring manager must inform the candidate that the offer is **contingent** upon the successful results of the background check. The hiring manager then conducts any and all applicable background checks on the final candidate.

## Attachment A

### Consent to Criminal Background Check

I hereby consent to a criminal background check and authorize the release of any information to [company name here]. I hereby release the company, its divisions, affiliates, and anyone acting on their behalf from any and all claims or liabilities of any nature arising from or related to the preparation and disclosure of the information contained in the criminal background report.

I do not consent to a criminal background check.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date