

# GUIDE FOR EMPLOYEES AND VOLUNTEERS CRIMINAL BACKGROUND CHECKS

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## Part I – Introduction

Preventing abuse before it occurs is a major objective of a child safety program. Prevention requires a long-term commitment to the implementation of prevention procedures. It also involves raising awareness of the nature of abuse and its effects on victims.

This booklet addresses the segment of child abuse prevention concerning the screening and selection of staff and volunteers. These steps are vital in the process of assuring a safe environment in which our children worship as a faith community and participate in educational services.

The basic screening program for all staff and volunteers shall include:

- A fully completed employment/volunteer application with full responses to the inquiries with no questions left unanswered.
- A criminal background check with BCII and satisfactory report.
- Completed checks with prior employers or other relevant affiliations.
- Completed reference checks.
- Personal interview with the applicant.

Individuals who refuse to comply with the fingerprinting background check and inquiries shall not be considered for any employment or volunteer position. Negative checks from prior employers shall also result in the applicant's removal from consideration.

No individual who has abused a minor will be employed or engaged as a volunteer.

The Catholic Diocese of Cleveland has issued its Policy for the Safety of Children in Matters of Sexual Abuse. This document applies to all persons affiliated with the Diocese of Cleveland.

A significant part of any child safety protection plan and the prevention of child sexual abuse is the appointment or hiring of qualified individuals to positions involving contact with children. This handbook summarizes procedures to be used in the hiring of employees and the appointment of volunteers in diocesan and parish programs and activities.

## Applicant Screening

In accordance with the Diocese of Cleveland policy<sup>1</sup>, persons who serve our youth as priests and brothers, deacons, seminarians, religious, certified pastoral ministers, parish life coordinators, members of pastoral teams, diocesan or parish employees or volunteers, or any persons appointed by the Bishop are among the faith community's most valuable assets. They contribute to the spiritual, emotional, intellectual, and physical well being of young Catholics. Hiring agents must take due precautions to assure that only qualified persons who are psychologically and temperamentally suited are chosen to work with children. Reasonable efforts should be undertaken to ensure that applicants for both employment where the position involves significant contact with children and volunteers who will have unsupervised access to a child on a regular basis (as defined in ORC 109.574) are screened appropriately and thus deemed suitable for such work.<sup>2</sup>

No employee or applicant with a history of a sex offense conviction will be knowingly considered for placement or hire.<sup>3</sup> Seminarians and candidates for the diaconate of the Diocese of Cleveland must certify that they have read and will adhere to this policy. Diocesan hiring agents should present each applicant and prospective volunteer with a copy of this policy and instruct that it be read.

Diocesan policy provides that each applicant for employment where the position involves significant contact with children and prospective volunteer

who will have unsupervised access to children will supply the names of three references.<sup>4</sup> Hiring agents<sup>5</sup> will:

- Make reasonable efforts to speak with all references provided.
- Make reasonable efforts to verify the employment history submitted by applicants for employment.
- Submit all names of applicants to the Diocesan Legal Office for a check of the registry.
- Request the Ohio Bureau of Criminal Identification and Investigation (BCII) or other contract agency to conduct a criminal records check of each applicant for employment who will have significant contact with children and prospective volunteer who will have unsupervised access to children.

Any applicant who has not lived continuously in the State of Ohio for the five years preceding his/her application must also provide an FBI identification record or a waiver allowing the hiring agent to obtain it. Any person or group hired through a third party contract and who will have responsibility for the care, custody, or control of a child must provide proof of a BCII criminal background check.<sup>6</sup> Any applicant considered for employment who will have **access** to children, whether supervised or unsupervised, shall be required to undergo a fingerprint criminal background check.

All information gathered in connection with employment decisions will be retained in a confidential file at the location of employment for as long as legally required.

To the extent reasonably practicable, all hiring agents responsible for the selection of employees and/or volunteers with significant contact with children in the parishes and institutions of the diocese will be trained in holistic screening techniques.

Those responsible for the development and implementation of youth service programs must adopt policies and procedures that guard against actual or potential situations in which harm can be inflicted or which give rise to suspicions of potential sexual abuse.<sup>7</sup>

## Part II – Criminal Offenses

### CONVICTIONS WHICH BAR EMPLOYMENT OHIO REVISED CODE § 331939

In accordance with the mandates of Ohio Revised Code § 3319.39, the following criminal convictions prevent employment by chartered non-public schools in Ohio.<sup>8</sup> The statute establishes the minimum requirements barring such employment, and the hiring authority of each non-public school has the discretion to establish more stringent requirements. It must always be remembered that persons selected to work with and/or supervise children should be trustworthy and serve as role models.

CRIME	O.R.C. §
Murder	2903.01
Aggravated Murder	2903.02
Voluntary Manslaughter	2903.03
Involuntary Manslaughter	2903.04
Felonious Assault	2903.11
Aggravated Assault	2903.12
Assault	2903.13
Failure to Provide Proper Care for Functionally Impaired Person	2903.16
Aggravated Menacing	2903.21
Patient Abuse or Neglect	2903.34
Kidnapping	2905.01
Abduction	2905.02
Child Enticement	2905.05
Rape	2907.02
Sexual Battery	2907.03
Corruption of a Minor	2907.04
Gross Sexual Imposition	2907.05
Sexual Imposition	2907.06
Importuning	2907.07
Voyeurism	2907.08
Public Indecency	2907.09
Compelling Prostitution	2907.21
Promoting Prostitution	2907.22
Procuring Prostitution	2907.23
Prostitution	2907.25
Disseminating Matter Harmful to Juveniles	2907.31
Pandering Obscenity	2907.32
Child Pornography	2907.321
Pandering Sexually Oriented Materials re: Minors	2907.322
Use of Minor in Nudity-Oriented Materials or Performance	2907.323
Aggravated Robbery	2911.01
Robbery	2911.02
Aggravated Burglary	2911.11
Burglary	2911.12
Unlawful Abortion	2919.12
Endangering Children	2919.22
Contributing to Unruliness or Delinquency of Child	2919.24
Domestic Violence	2919.25
Carrying Concealed (Loaded) Weapon	2923.12
Having Weapon While Under a Disability	2923.13
Discharging Firearm at or Into a School or Residence	2923.161
Corrupting Another With Drug	2925.02
Trafficking in Drugs	2925.03
Illegal Manufacture of Drugs or Cultivation of Marijuana	2925.04
Funding of Drug or Marijuana Trafficking	2925.05
Illegal Administration or Distribution of Alcoholic Substance	2925.06
Placing Harmful Objects or Substances in Food	3716.11

## Part III – Volunteers

Ohio Revised Code § 109.575 requires all volunteers serving an organization or entity with unsupervised access to children to provide, when required by an organization or entity, a set of fingerprinting impressions for the purpose of securing a criminal records check from the Bureau of Criminal Identification and Investigation (BCII). The organization or entity shall inform a volunteer that he/she may be required to undergo a fingerprint criminal background check. It is recommended that all volunteers, regardless of their length of service, be required to

undergo a fingerprint criminal background check.

The definition in the law of organization or entity includes, but is not limited to, religious, charitable, educational, athletic, and service institutions/organizations. Unsupervised access to a child means that the volunteer has access to a child when either of the following applies:

1. No other person 18 years of age or older is present in the same room with the child, or;
2. If outdoors, no other person 18 years of age or older is within a 30 yard radius of the child or has visual contact with the child.

If the criminal records check of a volunteer indicates that the individual has been convicted of or has entered a plea of guilty to any of the offenses described in the Ohio Revised Code and if the volunteer continues to have unsupervised access to a child on a regular basis, the organization/entity shall notify in writing the parent/guardian of each child for whom it provides services. The written notification shall state that even though the volunteer has been convicted of one or more of the offenses listed in the statute, the volunteer who is identified by name will continue to serve the organization/entity in a volunteer position. The notice shall NOT identify the particular offense(s).

Any conviction of an offense described in Ohio law which bars an individual from employment and contact with children shall also bar a volunteer, from service with the Diocese or parish. When a person initially applies to be a volunteer, the volunteer shall be informed that fingerprints and a criminal background check will be required. All current volunteers shall be subjected to a criminal background/fingerprint check through BCII.

The notification to parents/guardians required by Ohio Revised Code § 109.576 shall be provided on the date of the commencement of the services to the child/children *or* on the date the person is accepted as a volunteer after the criminal records check is released, whichever is later. The notification shall identify the volunteer by name, shall state the fact that the person has been convicted of or has entered a plea of guilty to one or more of the offenses listed in Ohio Revised Code § 109.572 (A) (1), but shall NOT identify the particular offense or offenses.

**The Diocese of Cleveland requires that all current volunteers and employees, whether supervised or unsupervised, secure a BCII fingerprint background check. There is no exception and no "grandfathering" of any employee or volunteer. Third party contractors and their employees shall be required to undergo satisfactory fingerprint background checks.**

Any employee and volunteer who has access to children, meaning contact with children of any type or duration in his/her capacity as a volunteer or employee shall be required to obtain a fingerprinting background check through BCII.

A minimum of three references for each volunteer shall be obtained.

#### **Part IV – How to Complete the BCII Fingerprint Form**

The process to secure the required Bureau of Criminal Identification & Investigation civilian background check for employee and volunteer applicants includes obtaining the BCII Civilian Background Check card from the Bureau of Criminal Identification & Investigation, which must be completed as indicated. Only the BCII Civilian Background Check fingerprint card for the State of Ohio background checks are to be used. These cards may be obtained from BCII. Employee and volunteer applicants may contact any municipal police department or county sheriff's office for fingerprinting.<sup>9</sup>

The applicant should complete (all information typed in black) the required segments of the card designated with a check mark on the attached sample:

- Name
- Address
- Date of birth
- Social security number
- Date fingerprinted
- Information regarding agency name/address
- Driver's license number
- Whether or not to notify the Ohio State Department of Education, Division of Teacher Certification/Licensure
- Reason to be fingerprinted

The waiver of release form (on the reverse side of the card) must be signed by the applicant before a witness, who is not related to the applicant, signs. If information is missing, the card will be returned unprocessed.

The applicant returns the completed card to the hiring authority, who then forwards the completed card to the BCII along with a money order, official check, or school/parish check (unless a billing account has been established with BCII) payable to Treasurer — State of Ohio. Cash and personal and third party checks are not accepted. The charge for a BCII State of Ohio records check is \$15.00 and \$24.00 for a FBI multi-state records check.<sup>10</sup> The card and accompanying check should be sent to the Bureau of Criminal Identification & Investigation, P. O. Box 365, London, Ohio 43140.<sup>11</sup>

After fourteen (14) working days, call (740) 852-2566, Ext. 253 to obtain your billing code number.

#### **Part V Frequently Asked Questions About BCII Background Checks**

**Q. Will a representative of the local police/sheriff department come to the parish/school to do all the fingerprinting?**

A. Some local law enforcement agencies will come to a parish/school to fingerprint staff and volunteers if the number of applicants is significant. Others require that individuals come to the police department or sheriff's office for fingerprinting.

**Q. After the fingerprinting is completed, what is the next step?**

A. After the fingerprinting, the fingerprint cards and a check in the amount of \$15.00 (Ohio background check) or \$24.00 (Ohio/multistate background check)<sup>12</sup> for each card is sent to: Bureau of Criminal Identification & Investigation P. O. Box 365 London, Ohio 43140

**Q. Can a pastor call a central location (federal, state) to get an update on a background check?**

A. Updates are obtained in the form of submitting new fingerprint cards. For instance, on an annual or biannual basis. The cost for updates within a one-year period has a lesser fee, according to state law.

**Q. Do teaching and non-teaching staff and volunteers use the same fingerprinting cards?**

A. Yes, the card is captioned CIVILIAN BACKGROUND CHECK.

**Q. If a Youth Director is a teacher, can a pastor presume the individual has satisfactorily passed a BCII/FBI background check?**

A. Before hiring or appointing any staff or volunteer, the entire hiring process should be completed:

1. Applicant fully completes an application form provided by the hiring authority
2. All former employers, supervisors, and references are contacted
3. BCII or FBI background check is completed

**Q. When do convictions appear on criminal background checks?**

A. Under Ohio law, a person is not "convicted" of a crime until the sentencing is completed in open court. As a result, a conviction will not appear on a BCII report until after sentencing. It is advisable that all persons new to a particular parish/school be fingerprinted even if they have been printed in the past. If an arrest or criminal charge appears on the background check without the status, a call shall be placed to the arresting law enforcement agency for an update.

**Q. Should priests be fingerprinted?**

A. Yes. It is the practice of the Diocese of Cleveland/St. Mary Seminary to have ordained priests and deacons fingerprinted when they enter the seminary, once again prior to parish duties as a deacon, and immediately prior to ordination. All pastors and priests who have not been previously fingerprinted shall be fingerprinted. Pastors and priests must take a leadership role to accomplish a successful outcome.

**Q. Is there a difference between a BCII and a FBI criminal records check?**

A. A BCII records check covers convictions in Ohio. The FBI criminal records check includes convictions in Ohio and nationally.

**Q. Can criminal background checks be secured on juveniles?**

A. Only findings of delinquency in felony cases will be released on juveniles. No misdemeanor findings will be released on the criminal background check.

**Q. Who should be fingerprinted for criminal background checks?**

A. All persons, including employees, volunteers, and third party contracted individuals should be fingerprinted for criminal background checks.

**Q. Is it required that criminal background checks be secured through BCII?**

A. The Ohio law mandates that criminal background checks be secured from BCII.

**Q. How often should fingerprinting for criminal background checks be conducted?**

A. Ohio law provides that BCII criminal background checks are valid for one year from the date of issue by BCII. It is recommended, therefore, that BCII background checks be secured annually.

**Q. What does the term "multi-state offender" mean on a BCII criminal background check?**

A. Since BCII background checks cover only Ohio convictions, when the subject of the background check has convictions outside the state of Ohio, the BCII will indicate the "multi-state offender" status. In such cases, new fingerprints need to be taken and re-submitted for a FBI background check.

**Q. Should a BCII or FBI criminal background check be secured for employee/volunteer applicants who have lived out of state or who have attended college/university out of state?**

A. If an applicant has lived out of state or attended college/university out of state during the five years prior to application, a FBI criminal background check should be secured.

<sup>1</sup> Diocese of Cleveland Policy for the Safety of Children in Matters of Sexual Abuse, March 1, 2003.

<sup>2</sup> Persons who have access to or contact with children are required to have a successful BCII background check whether the access or contact is supervised or unsupervised.

<sup>3</sup> All pre-hiring procedures are to be followed, including a BCII fingerprint background check and prior employer and reference checks.

<sup>4</sup> Persons who have access to or contact with children are required to have a successful BCII background check whether the access or contact is supervised or unsupervised.

<sup>5</sup> The "hiring agent" for a parish or parish-affiliated school is the pastor.

<sup>6</sup> See footnote 2 above; applicants who have resided out of state, for example, for educational purposes, during the five years preceding application should have FBI multi-state criminal background checks completed.

<sup>7</sup> Diocese of Cleveland Policy for the Safety of Children in Matters of Sexual Abuse, March 1, 2003.

<sup>8</sup> The law also applies to Ohio public school districts.

<sup>9</sup> If the number of applicants is sizeable, a representative of a municipal police department or sheriff's office may agree to come to the parish setting to fingerprint all applicants at one time.

<sup>10</sup> A proposed rate increase may be effective January 2004. The BCII can be reached at (740) 845-2000.

<sup>11</sup> If WebCheck® is used, the process differs.

<sup>12</sup> A proposed rate increase may be effective January 2004. The BCII can be reached at (740) 845-2000.