

Chapter 110-04 WAC
BACKGROUND CHECK REQUIREMENTS—CHILD WELFARE
(Formerly: Chapter 388-06A WAC)

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WAC

110-04-0010 What is the purpose of this chapter?
110-04-0020 What definitions apply to this chapter?
110-04-0030 Why are background checks done?
110-04-0040 Who must have background checks?
110-04-0050 Who is not affected by this chapter?
110-04-0060 Does the background check process apply to new and renewal licenses, certification, contracts, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children?
110-04-0070 What happens if I do not comply with the background check requirement?
110-04-0080 What does the background check cover?
110-04-0090 Who pays for the background check?
110-04-0120 If I have a pending criminal charge, conviction, or negative action may I ever be authorized to be licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children?
110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, I have been pardoned for a crime, or I have obtained a CPI or CROP?
110-04-0150 How will I know the status of the background check?
110-04-0160 What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization to have unsupervised access based on the results of the background check?
110-04-0170 Is the background check information released to my employer or prospective employer?
110-04-0180 May I request a copy of my criminal background check results?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

110-04-0100 Will a criminal conviction permanently prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children? [Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0100, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0170, filed 1/15/15, effective 2/15/15.] Repealed by WSR 22-10-022, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271.
110-04-0110 Are there other criminal convictions that will prohibit me from being licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children or from working with children? [Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0110, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0110, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0180, filed 1/15/15, effective 2/15/15.] Repealed by WSR 22-10-022, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271.
110-04-0130 Will I be disqualified if there are pending criminal charges on my background check? [Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0130, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0130, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0200, filed 1/15/15, effective 2/15/15.] Repealed by WSR 22-10-022, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271.

WAC 110-04-0010 What is the purpose of this chapter? This chapter establishes rules for background checks conducted by the department of children, youth, and families (DCYF) for child welfare purposes and does not apply to background checks conducted for child care or early learning purposes as they are addressed in chapter 110-06 WAC. The department does background checks on individuals who are licensed, certified, contracted, employed in a group care facility, or authorized to care for or have unsupervised access to children. Background checks are conducted to find and evaluate any history of criminal convictions or civil adjudication proceedings, including those involving abuse, abandonment, financial exploitation, or neglect of a child or vulnerable adult.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0010, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0010, filed 6/29/18, effective

WAC 110-04-0020 What definitions apply to this chapter? The following definitions apply to this chapter:

"Authorized" or **"authorization"** means not disqualified by the department to work in a group care facility or have unsupervised access to children. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

"Certification" means department or child placing agency (CPA) approval of a person, foster home, or facility that is exempt from licensing but meets the licensing requirements.

"Certificate of parental improvement (CPI)" means a certificate issued under chapter 74.13 RCW.

"Certificate of restoration of opportunity (CROP)" means a certificate issued under chapter 9.97 RCW.

"Child," "children," or "youth" means a person who is one of the following:

- (a) Under 18 years of age;
- (b) Up to 21 years of age and enrolled in services through the department of social and health services (DSHS) developmental disabilities administration (DDA) the day prior to their 18th birthday and pursuing either a high school or equivalency course of study (GED/HSEC) or vocational program;
- (c) Participating in the extended foster care program;
- (d) Up to 21 years of age with intellectual and developmental disabilities; or
- (e) Up to 25 years of age and under the custody of DCYF in juvenile rehabilitation.

"Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"Department" or **"DCYF"** means the department of children, youth, and families.

"I" and **"you"** refers to anyone who has unsupervised access to children in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

"Licensing division" or **"LD"** means the licensing division within DCYF. LD licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"Licensor" means either:

- (a) An LD employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies that provide or certify foster family homes or group care facilities under chapters 110-145, 110-147, and 110-148 WAC; or

(b) An employee of a child placing agency who certifies or monitors foster homes supervised by the child placing agency.

"Negative action" means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the subject individual reasonably related to the subject individual's character, suitability, and competence to care for or have unsupervised access to children receiving child welfare services. This may include, but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation.

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) A revocation, denial, or restriction placed on any professional license.

(e) A final decision of a disciplinary board.

"Pending criminal charge" means a criminal charge for a crime that has not yet resulted in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal.

"Secretary's list" means a list of crimes or negative actions that are federally disqualifying or may relate directly to child safety, permanence, or well-being and require DCYF to assess a subject individual's character, suitability, and competence to care for or have unsupervised access to children receiving child welfare services. The secretary's list is available at <https://www.dcyf.wa.gov/sites/default/files/pdf/secretaryslist.pdf>.

"Unsupervised" means will not or may not be in the presence of:

(a) The licensee, another employee, or volunteer from the same business or organization as the applicant who has not been disqualified by the background check; or

(b) Another individual who has been previously approved by DCYF.

"We" refers to the department, including licensors and caseworkers.

"WSP" refers to the Washington state patrol.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0020, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0020, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0020, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0030 Why are background checks done? DCYF does background checks to help safeguard the health, safety, and well-being of children in out of home care. By doing background checks, the department reduces the risk of harm to children from individuals who have been convicted of certain crimes. The department's regulations require the evaluation of your background to determine your character, suitability, and competence before you are issued a license, contract, certificate, authorization to be employed at a group care facility, or authorization to have unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0030, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0100, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0040 Who must have background checks? (1) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department requires background checks on all providers who may have unsupervised access to children. This includes licensed, certified, or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.020.

(2) Under RCW 74.15.030, prior to authorizing unsupervised access to children, the department also requires background checks on other individuals who may have unsupervised access to children in department licensed or contracted homes or facilities that provide care, except for a normal childhood activity that lasts less than 72 hours, as stated in RCW 74.13.710. The department requires background checks on all of the following people:

(a) A volunteer or intern with regular or unsupervised access to children.

(b) Any person who regularly has unsupervised access to a child.

(c) A relative other than a parent who may be caring for a child.

(d) A person who is at least 16 years old and resides in a foster, relative, or other suitable person's home and is not a foster child.

(e) A person who is younger than 16 years old in situations where it may be warranted to promote the safety of children in out-of-home care.

(3) Any person employed at a group care facility, including those not directly working with children.

(4) Under RCW 13.34.138, prior to returning a dependent child home, the department requires a background check on all adults residing in the home, including the parents.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0040, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0040, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.030 and 43.43.832. WSR 18-12-101, § 388-06A-0110, filed 6/5/18, effective 7/6/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0110, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0050 Who is not affected by this chapter? This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial.

[WSR 18-14-078, recodified as § 110-04-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0120, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0060 Does the background check process apply to new and renewal licenses, certification, contracts, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children? For DCYF, these regulations apply to all applications for new and renewal licenses, contracts, certifications, authorizations to be employees at a group care facility, and authorizations to have unsupervised access to children that are processed by DCYF after the effective date of this chapter.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0060, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0060, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0130, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0070 What happens if I do not comply with the background check requirement? The department will deny, suspend, or revoke your license, contract, or certification, or disqualify you to care for children if you or someone on the premises of your home or facility having unsupervised access, or an employee at a group care facility does not comply with the department's requirement for a background check.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0070, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0140, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0080 What does the background check cover? (1) The department must review criminal convictions and pending criminal charges based on identifying information provided by you. The background check may include, but is not limited to, the following information sources:

- (a) Washington state patrol.
 - (b) Washington courts.
 - (c) Department of corrections.
 - (d) Department of health.
 - (e) Civil adjudication proceedings.
 - (f) Applicant's self-disclosure.
 - (g) Out-of-state law enforcement and court records.
- (2) Background checks conducted for DCYF also includes:

(a) A review of child protective services case files information or other applicable information system.

(b) Administrative hearing decisions related to any DSHS or DCYF license that has been revoked, suspended, or denied.

(3) In addition to the requirements in subsections (1) and (2) of this section, background checks conducted by DCYF for placement of a child in out-of-home care, including foster homes, group care facilities, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, include the following for each person over 18 years of age residing in the home, all staff working in a group care facility, including those not directly working with children, and group care volunteers who provide direct care:

(a) Child abuse or neglect registries in each state in which a person has lived in the five years prior to conducting the background check.

(b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington state.

(4) Except as required in subsection (3)(b) of this section, DCYF will conduct a fingerprint-based background check on any individual who has resided in the state less than three consecutive years before application.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0080, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0080, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0080, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0150, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0090 Who pays for the background check? (1) DCYF pays the DSHS general administrative costs and WSP and FBI fingerprint processing fees for foster home applicants, DCYF relative and other suitable caregivers, DCYF adoptive home applicants, and other adults associated with the home requiring clearances under chapter 13.34 RCW.

(2) DCYF does not pay WSP and FBI fingerprint processing fees or expenses for:

(a) Non-DCYF employees, contractors, or volunteers associated with facilities other than foster homes; or

(b) Adoptive, foster, relative, or other suitable caregiver homes that are not proposed by DCYF.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0090, filed 4/25/22, effective 5/26/22. WSR 18-14-078, recodified as § 110-04-0090, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0160, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0120 If I have a pending criminal charge, conviction, or negative action may I ever be authorized to be licensed, contracted, certified, authorized to be employed at a group care facility, or authorized to have unsupervised access to children? (1) DCYF must disqualify a person with pending criminal charges or convictions on the DCYF secretary's list that are:

(a) Permanently disqualifying; or

(b) Five-year disqualifying if less than five years have passed since the date of conviction.

(2) DCYF may authorize a person with pending criminal charges, convictions, or negative actions on the DCYF secretary's list that are not listed in subsection (1) of this section. In this situation, DCYF must review your background information and assess your character, suitability, and competence to have unsupervised access to children. In this assessment, DCYF will consider the following factors, among others, related to your background information:

(a) The amount of time that has passed since the pending criminal charge, conviction information, or negative action;

- (b) The seriousness of the crime or incident that led to the pending criminal charge, conviction, or negative action;
- (c) The number, types, and age of other pending criminal charges, convictions, or negative actions in your background;
- (d) Your age at the time of pending criminal charge, conviction, or negative action;
- (e) Completion of services or other evidence of rehabilitation since the pending criminal charge, conviction, or negative action; and
- (f) Your role or purpose of the background check.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0120, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0120, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0120, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0190, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0140 Will you license, contract, authorize my employment at a group care facility, or authorize me to have unsupervised access to children if my conviction has been expunged, vacated from my record, I have been pardoned for a crime, or I have obtained a CPI or CROP?

(1) If you receive a pardon or a court of law acts to expunge or vacate a conviction on your record, the crime will not be considered a conviction for the purposes of licensing, contracting, certification, authorization for employment at a group care facility, or authorization for unsupervised access to children.

(2) When you have obtained a CPI or CROP, DCYF must:

(a) Disqualify if your background information contains a pending criminal charge or conviction of a crime under WAC 110-04-0120(1); or

(b) Assess character, suitability, and competence under WAC 110-04-0120, if the CPI or CROP does not apply to a pending criminal charge, conviction of a crime, or negative action under WAC 110-04-0120(2).

(3) A CROP does not apply to founded findings of child abuse or neglect. No finding of child abuse or neglect may be destroyed based solely on a CROP.

(4) A CROP must be included as part of the criminal history record reports, qualifying letters, or other assessments pursuant to RCW 43.43.830 through 43.43.838.

(5) If you have obtained a CPI, DCYF may still consider the facts that led to the associated founded findings for child abuse or neglect to determine whether you have the character, suitability, and competence to have unsupervised access to children.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0140, filed 4/25/22, effective 5/26/22. Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0140, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0140, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0210, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0150 How will I know the status of the background check?

(1) If you have been approved by the background check:

(a) The department will notify you and your prospective employer or supervisor if you have requested a contract, authorization to be employed at a group care facility, or approval for unsupervised access to children.

(b) The department will not directly notify you, and will instead continue the process for approving your application if you have requested a license or certification to care for children.

(2) If you have been disqualified by the background check:

(a) The department will notify you in writing and include any laws and rules that require disqualification;

(b) The department will also notify the care provider, the prospective employer, or the licenser; and

(c) You will not receive a license, contract, certification, or be authorized to be employed at a group care facility or have unsupervised access to children.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-04-0150, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-04-0150, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0220, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0160 What may I do if I disagree with the department's decision to deny me a license, certification, contract, or authorization to have unsupervised access based on the results of the background check?

(1) If you are seeking a license or employment with a home or facility licensed by DCYF, you may appeal the department's decision by requesting an administrative hearing to dispute a denial of authorization for unsupervised access to children. You cannot contest the pending criminal charge, conviction, or negative action in the administrative hearing.

(2) Prospective volunteers or interns, contractors or their employees, or those seeking certification do not have the right to appeal the department's decision to deny authorization for unsupervised access to children.

(3) The employer or prospective employer cannot appeal the department's decision on your behalf.

(4) The administrative hearings are conducted by administrative law judges employed by the office of administrative hearings, pursuant to chapters 34.05 RCW and 110-03 WAC.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0160, filed 4/25/22, effective 5/26/22. WSR 18-14-078, recodified as § 110-04-0160, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0230, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0170 Is the background check information released to my employer or prospective employer? (1) DCYF will share with employers or approved care providers only that:

(a) You are disqualified; or

(b) You have not been disqualified by the background check.

(2) The department will follow laws related to the release of criminal history records (chapters 10.97 and 43.43 RCW) and public disclosure (chapter 42.56 RCW) when releasing any information.

[Statutory Authority: RCW 43.43.832(2), 43.216.065, and 43.216.271. WSR 22-10-022, § 110-04-0170, filed 4/25/22, effective 5/26/22. WSR 18-14-078, recodified as § 110-04-0170, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0240, filed 1/15/15, effective 2/15/15.]

WAC 110-04-0180 May I request a copy of my criminal background check results? (1) The department will provide you a copy of your criminal background check results if you:

- (a) Make the request in writing to the department; and
- (b) Offer proof of identity, such as picture identification.

(2) A copy of your WSP criminal background check results may also be obtained from the Washington state patrol (chapter 10.97 RCW).

[WSR 18-14-078, recodified as § 110-04-0180, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.43.832. WSR 15-03-071, § 388-06A-0250, filed 1/15/15, effective 2/15/15.]