

## EXAMPLE POLICY ON DETERMINATION OF WORKER SUITABILITY FOR INTERACTING WITH MINORS

### I. Introduction and Purpose

MEMBER institutes this policy as part of its commitment to a safe and supportive environment for minors who participate in MEMBER's programs, outreach, and services. Where the purpose of some of MEMBER's grant-funded activities is to benefit individuals under 18 years of age, MEMBER commits to make a written determination of suitability before covered individuals may interact with participating minors. This must be based on current and appropriate information and take into account certain factors and considerations.

MEMBER is committed to providing a safe environment to obtain information, resources, and support for any and all minors who participate in MEMBER programs and institutes this policy to ensure their safety.

### II. Definitions

**Covered individual:** A covered individual is any individual (other than a participating minor, as defined below, or a client of MEMBER who is expected, or reasonably likely, to interact with any participating minor (other than the individual's own minor children). A covered individual need not have any particular employment status or legal relationship with MEMBER. Such an individual might be an employee of MEMBER, but also might be (for example) a consultant, contractor, employee of a contractor, trainee, volunteer, or teacher.

**Participating minor:** All individuals under 18 years of age within the set of individuals described in the scope section of this condition as it appears on the award document are participating minors.

**Interaction:** Includes physical contact, oral and written communication, and the transmission of images and sound, and may be in person or by electronic (or similar) means. But "interaction" **does not** include -

- a. Brief contact that is both unexpected by the MEMBER and unintentional on the part of the covered individual -- such as might occur when a postal carrier delivers mail to an administrative office or a presentation to a group of attendees in a public forum...
- b. personally-accompanied contact -- that is, infrequent or occasional contact (for example, by someone who comes to make a presentation) in the presence of an accompanying adult, pursuant to written policies and procedures of MEMBER that are designed to ensure that -- throughout the contact -- an appropriate adult who has been determined to be suitable

pursuant to this policy will closely and personally accompany, and remain continuously within view and earshot of, the covered individual.

### III. Written Determination

MEMBER will make a written determination of suitability before covered individuals may interact with participating minors. This must be based on current and appropriate information and take into account certain factors and considerations as outlined below.

MEMBER must update searches, fingerprints, and reexamine suitability determinations at least every five years.

<b>Written Determination of Suitability</b>	
<b>Current and Appropriate Information</b> <i>Background checks or screening – must be completed no earlier than six months before the determination. Screening includes:</i>	<b>Additional Factors and Considerations</b> <i>In addition to “current and appropriate information” considered, <u>MEMBER</u> may NOT determine a covered individual is suitable to interact with participating minors if the person:</i>
<ul style="list-style-type: none"> <li>• Reviewing public sex offender and child abuse websites/registries</li> <li>• The Dru Sjodin National Sex Offender Public Website (<a href="http://www.nsopw.gov">www.nsopw.gov</a>)</li> <li>• Reviewing criminal history registries via ICHAT (<a href="https://apps.michigan.gov/">https://apps.michigan.gov/</a>)               <ul style="list-style-type: none"> <li>○ OVW requires a fingerprint search, if possible. If <u>MEMBER</u> cannot obtain such a search, <u>MEMBER</u> must keep documentation regarding why that search was not available. <u>MEMBER</u> should obtain a written letter from their local Sheriff’s department indicating that it does not participate in obtaining fingerprints for nonprofit organizations.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Withholds consent to a required criminal history search;</li> <li>• Knowingly makes (or made) a false statement that affects or is intended to affect any required search;</li> <li>• Is listed as a registered sex offender on the Dru Sjodin National Sex Offender Public Website;</li> <li>• Has been convicted of: (1) sexual or physical abuse, neglect, or endangerment of an individual under the age of 18 at the time of the offense; (2) rape/sexual assault, including conspiracy to commit rape/sexual assault; (3) sexual exploitation, such as through child pornography or sex trafficking; (4) kidnapping; (5) voyeurism;</li> <li>• Is determined by a federal, state, tribal, or local government agency not to be suitable.</li> </ul>

#### **IV. Procedure**

MEMBER must do a background check of applicants that fit the definition of working with minors above. MEMBER must do an ICHAT background check, a Central Registry check and a check of the State and Federal sex offender registry before hire. MEMBER should advise all potential hires of this policy and obtain their written consent. MEMBER must keep verification that the organization has performed an ICHAT background check, Central Registry check and a State and Federal sex offender registry check in accordance with MEMBER's document retention policies.

While federal law requires that MEMBER fingerprint all employees working with minors, state law does not provide for such fingerprinting. Therefore, to be in compliance with both state and federal law, MEMBER will obtain a written document from their local Sherriff's department, indicating that, by statute, the department is not required to provide fingerprinting services for nonprofit organizations. This document is only required to be obtained once and then is kept in compliance with MEMBER document retention policies.

Nothing in this policy will prevent MEMBER from hiring a potential employee who may have a past criminal history unless the potential employee has a prior conviction for: (1) sexual or physical abuse, neglect, or endangerment of an individual under the age of 18 at the time of the offense; (2) rape/sexual assault, including conspiracy to commit rape/sexual assault; (3) sexual exploitation, such as through child pornography or sex trafficking; (4) kidnapping; or (5) voyeurism. Any hiring decision made by MEMBER regarding someone with a criminal history absent the above-listed convictions should be made on a case-by-case basis in consideration of the offense to the position.