

EXAMPLE POLICY ON DETERMINATION OF SUITABILITY TO INTERACT WITH PARTICIPATING MINORS (U.S. Department of Justice Office of Justice Programs Federal Award [Condition](#))

I. Introduction and Purpose

NAME OF SUBRECIPIENT ORGANIZATION institutes this policy as part of its commitment to a safe and supportive environment and compliance with federal grant award conditions for minors who participate in NAME OF SUBRECIPIENT ORGANIZATION programs, outreach, and services. Where the purpose of some of NAME OF SUBRECIPIENT ORGANIZATION's grant-funded activities is to benefit individuals under 18 years of age, NAME OF SUBRECIPIENT ORGANIZATION commits to make a written determination of suitability no more than six months 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.

NAME OF SUBRECIPIENT ORGANIZATION is committed to providing a safe environment to obtain information, resources, and support for any and all minors who participate in NAME OF SUBRECIPIENT ORGANIZATION 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 NAME OF SUBRECIPIENT ORGANIZATION 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 NAME OF SUBRECIPIENT ORGANIZATION. Such an individual might be an employee of NAME OF SUBRECIPIENT ORGANIZATION, 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 NAME OF SUBRECIPIENT ORGANIZATION 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 NAME OF SUBRECIPIENT ORGANIZATION 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

NAME OF SUBRECIPIENT ORGANIZATION 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.

NAME OF SUBRECIPIENT ORGANIZATION must update searches, fingerprints, and reexamine suitability determinations at least every five years. All documentation is to be maintained onsite.

| Written Determination of Suitability | |
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| Current and Appropriate Information <i>Background checks or screening – must be completed no earlier than six months before the determination. Screening includes:</i> | Additional Factors and Considerations <i>In addition to “current and appropriate information” considered, <u>NAME OF SUBRECIPIENT ORGANIZATION</u> may NOT determine a covered individual is suitable to interact with participating minors if the person:</i> |
| <ul style="list-style-type: none"> • Reviewing public sex offender and child abuse websites/registries; • The Dru Sjodin National Sex Offender Public Website (www.nsopw.gov) • For each individual at least 18 years of age who is a covered individual under this award, a fingerprint search (or, if the recipient or subrecipient documents that a fingerprint search is not legally available, a name-based search, using current and, if applicable, previous names and aliases) -- encompassing at least the time period beginning five calendar years preceding the date of the search request -- of pertinent state (and, if applicable, local and tribal) criminal history registries or similar repositories, including-- • (a) the criminal history registry for each state in which the individual lives, works, or goes to school, or has lived, worked, or gone to school | <ul style="list-style-type: none"> • Withholds consent to a required criminal history search. • Knowingly makes (or made) a false statement that affects or is intended to affect any required search. • Is listed as a registered sex offender on the Dru Sjodin National Sex Offender Public Website. • 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; • Is determined by a federal, state, tribal, or local government agency not to be suitable. |

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| <p>at any time during the past five years; and</p> <ul style="list-style-type: none">• (b) the criminal history registry for each state in which he or she is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award.• Reviewing criminal history registries via Virginia State Police: <u>(Fingerprinting for Noncriminal Justice Purposes – Virginia State Police)</u><ul style="list-style-type: none">○ OVW requires a fingerprint search, if legally permissible. If <u>NAME OF SUBRECIPIENT ORGANIZATION</u> cannot obtain such a search due to local or state laws, <u>NAME OF SUBRECIPIENT ORGANIZATION</u> must keep documentation regarding why that search was not available. | |
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IV. Procedure

NAME OF SUBRECIPIENT ORGANIZATION must do a background check of applicants that fit the definition of working with minors above. NAME OF SUBRECIPIENT ORGANIZATION must do a fingerprint search (or, if the recipient or subrecipient documents that a fingerprint search is not legally available, a name-based search), a Central Registry check, a check of the State and Federal sex offender registry before hire and the criminal history registry for each state in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and the criminal history registry for each state in which he or she is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award. NAME OF SUBRECIPIENT ORGANIZATION should advise all potential hires of this policy and obtain their written consent. NAME OF SUBRECIPIENT ORGANIZATION must keep verification that the organization has performed the required background searches in accordance with NAME OF SUBRECIPIENT ORGANIZATION's document retention policies.

While federal law requires that NAME OF SUBRECIPIENT ORGANIZATION fingerprint all employees, volunteers, etc. working with minors, if applicable state laws do not provide for such fingerprinting, NAME OF SUBRECIPIENT ORGANIZATION will obtain a written document from their local law enforcement agency, 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 NAME OF SUBRECIPIENT ORGANIZATION document retention policies.

Nothing in this policy will prevent NAME OF SUBRECIPIENT ORGANIZATION from hiring a potential employee, volunteer, etc. 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 NAME OF SUBRECIPIENT ORGANIZATION 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.

NAME OF SUBRECIPIENT ORGANIZATION is to contact the DCJS with any questions regarding the requirements of this condition and must not allow a covered individual to interact with a participating minor until such questions are answered.

Award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this policy, provided that such funds would not supplant non-federal funds that would otherwise be available for such costs. Nothing in this policy shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal, state, tribal, or local law, including any applicable civil rights or nondiscrimination law.