

Serve Wisconsin National Service Criminal History Check Policy Revised December 17, 2018

The Corporation for National and Community Service (the Corporation) issued the final rule for implementation of the Serve America Act requirement for FBI fingerprint checks for AmeriCorps members and grant-funded staff with access to vulnerable populations. The final rule was published in the Federal Register, Vol. 77, No. 194, Page 60922, Friday, October 5, 2012, and was effective January 1, 2013.

The Corporation's Interim Final Rule including Serve America Act changes to criminal history check requirements was published in the Federal Register, Vol. 74, No. 174, Page 46495, September 10, 2009. The Corporation's previous Final Rule on criminal history checks was published in the Federal Register, Vol. 72, No. 164, Page 48574, Friday, August 24, 2007. These rules amend National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973 and AmeriCorps regulations.

The Serve Wisconsin National Service Criminal History Check Policy incorporates the Corporation's final rule of 2007, interim final rule of 2009, and the final rule effective January 1, 2013, in their entirety, **with the exception that the Corporation's requirements related to FBI fingerprint checks was made effective and applicable to Serve Wisconsin's funded programs beginning April 21, 2011.** Serve Wisconsin's policy also adds the required Wisconsin Circuit Court Access (WCCA) check for AmeriCorps Members.

Scope

- The Corporation's guidance states that "the National Service Criminal History Check eligibility criteria apply to individuals in covered positions." A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary. Therefore, the criminal history check requirements cover **all** AmeriCorps State and National members who start service on or after April 21, 2011, and **all** grant-funded employees who begin work on or after April 21, 2011. "Grant-funded" includes funding through CNCS Share and Grantee Share/match. The requirements also cover employee applicants of Full-Time Fixed Amount programs if they carry out the grant-funded activities or administer the grant.
- National Service Criminal History Checks determine eligibility.
- Eligibility is a controlling determination on allowable versus unallowable costs.
- Ineligible individuals serving or working for a program are likely to have associated costs (living allowance, education award, salary, etc.) questioned during audit, and corrective action required during Corporation oversight.

Required Criminal History Check

There are **four** types of search requirements:

- 1) **State Criminal History Registry – Applies to all AmeriCorps Members and Grant-Funded Employees:** A search (by name or fingerprint) of the state criminal history registry for the state in which the program operates and the state in which the applicant resides at the time of application. For the purpose of Corporation requirements, an individual applying to serve or work who is an enrolled full-time college student is deemed to be residing in the state where he/she lives for the purpose of attending the school without regard to whether or not that home is on- or off-campus, and whether or not that home is in the same state as the college is located.
 - Beginning with the start of the CNCS Fieldprint and Truescreen Exemption Period in November 2018, programs funded through Serve Wisconsin are required to obtain all state criminal history checks through the CNCS-contracted Truescreen service. Information is available at <https://applicationstation.truescreen.com/>. **An individual must not serve or work in a covered position prior to completion of the state criminal history registry search component.**

- Prior to the requirement to use CNCS-contracted Truescreen services, the source for conducting Wisconsin criminal history checks was the State Department of Justice. Information is available at <http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information>.

For information on other state's criminal history registries, go to https://www.nationalservice.gov/sites/default/files/documents/NSCHC_Using_NSOPW_and_State_Repositories_11-15-18_508.pdf

2) National Sex Offender Public Website (NSOPW) – Applies to all AmeriCorps Members and Grant-Funded Employees:

The NSOPW search must be nationwide in order to meet this requirement. If any of the databases (jurisdiction's data availability) is down, offline, or otherwise unavailable, the NSOPW check is incomplete until all databases (jurisdictions) are checked. CNCS requires the NSOPW check on the applicant's current legal name, as shown on that person's government identification. Of course, it is prudent and easy to check any other names that the person has used. **An individual must not serve or work in a covered position prior to completion of the nationwide NSOPW search component.**

- Beginning with the start of the CNCS Fieldprint and Truescreen Exemption Period in November 2018 programs funded through Serve Wisconsin are required to obtain all NSOPW checks through the CNCS-contracted Truescreen services. Information is available at <https://applicationstation.truescreen.com/>
- Prior to the requirement to use CNCS-contracted Truescreen services, the source for conducting NSOPW checks was www.nsopw.gov.

3) FBI Fingerprint Check – Applies to all AmeriCorps Members and Grant-Funded Employees who will have recurring access to vulnerable populations (children age 17 or younger, individuals age 60 and older, and/or individuals with disabilities):

Recurring access is defined as the ability on more than one occasion to approach, observe, or communicate with an individual through physical proximity or other means, including but not limited to electronic or telephonic communication.

- Beginning with the start of the CNCS Fieldprint and Truescreen Exemption Period in November 2018 programs funded through Serve Wisconsin are required to obtain all FBI fingerprint checks through the CNCS-contracted Fieldprint FBI fingerprint channeler services. Information is available at: www.fieldprintcnscs.com. **If an FBI fingerprint check is applicable, an individual must not serve or work in a covered position prior to completion of the FBI fingerprint search component.**
- Prior to the requirement to use CNCS-contracted Fieldprint services, Serve Wisconsin offered programs the option of obtaining FBI fingerprinting services through an existing statewide state government contract or programs could use an alternate means of obtaining FBI fingerprint checks.

4) Wisconsin Circuit Court Access (WCCA) – Applies to all AmeriCorps Members: Serve Wisconsin also **requires** a check of WCCA system for AmeriCorps member applicants. There have been instances where relevant case information has not shown up in results from a Wisconsin state criminal history check, but has shown up in results from a WCCA check. Programs should review and consider WCCA results information that is relevant to a criminal history check review. Serve Wisconsin does not require and does not suggest that programs review or consider all WCCA court case information for the member selection process. There are many types of court cases that should not be used in the selection process, such as family court cases and probate cases, for example.

The system for this check can be found at <https://wcca.wicourts.gov/>. This requirement is only for AmeriCorps members, not grant-funded employees. **An individual may not serve as an AmeriCorps member prior to completion of the WCCA check.**

Additional Guidance

- The requirement to use CNCS-contracted Truescreen and Fieldprint services includes the requirement that all NSOPW, state criminal history and, if applicable, FBI fingerprint checks be completed, reviewed, and considered prior to the individual beginning to serve or work.
- **Disqualification of Applicants, Currently Serving Members, and Currently Working Grant-Funded Staff:** Individuals are ineligible for a covered position (enrolled member or employee of the program) if they have committed a **sex offense for which they have to be registered**, or if they were **convicted of murder**, as defined and described in section 1111 of title 18, United States Code.
- An individual who refuses to consent to a State criminal registry check or FBI fingerprint check, or who makes a false statement in connection with a grantee's inquiry concerning the individual's criminal history, is not eligible to work in an AmeriCorps grant-funded position (including those supported with claimed match) or to serve as an AmeriCorps member.
- The Corporation recommends that the grantee specifically address contact with vulnerable populations in each position description, service agreement, or similar document describing an individual's service activities.

Required Procedures

- Verification of applicant's identity, prior written authorization, an opportunity to correct inaccurate results, and confidentiality.
- Programs must be able to show that they conducted the required criminal history check for each covered individual and that they considered the results.
- CNCS guidance states that the CNCS-contracted Truescreen service maintains documentation of search results for seven years and the CNCS-contracted Fieldprint service maintains records for three years. Programs must ensure that if the required records retention period for program records extends beyond the time periods Truescreen and Fieldprint retain records, that the actual, dated results of the criminal history checks are retained in separate and secure program files until the records retention period ends; results should not be kept with other AmeriCorps staff/member records. The actual printed and dated results of WCCA checks also must be retained securely, separate from other program files, for the required records retention period.
- Programs are required to use Serve Wisconsin's Criminal History Check Procedure Verification Form to document compliance with these requirements for AmeriCorps members and grant-funded employees.

Costs

- The cost of conducting criminal history checks is an allowable cost, reimbursable with grant funds.
- Member and employee applicants do not assume the cost of criminal history checks, unless the Corporation has given written permission to do so.

Second, Third, or Fourth Term of Service

- A program must conduct a state criminal registry check, NSOPW check and, if applicable, FBI fingerprint check the first time an individual applies to a covered position in an AmeriCorps State program, but a new check is not required for an individual who is serving a consecutive term of service within the same program. A consecutive term of service means that there is no intervening break in service of more than 120 days during which the applicant did not serve in that specific program. However, if an individual applies for a second (or later) term of service with a different program, a new check is required.

In addition, if a previous term of service with less than 120 days break of service was for a position without recurring access to vulnerable populations and the subsequent term of service will be with access to vulnerable populations, an FBI fingerprint check must be completed.

Reinforce Importance of Effective Screening and Supervision for All Programs

- Criminal history checks are only one part of an effective screening process that also includes best practices in interviewing applicants, checking references and employment history, and checking motor vehicle history for individuals who will have driving responsibilities.

For more information

- Go to <http://www.nationalservice.gov/resources/criminal-history-check> to view the Corporation's Criminal History Check Resources Web page.