



FEB 09 2018

DIRECTIVE: JOB CORPS PRH CHANGE NOTICE NO. 17-09

TO: ALL JOB CORPS NATIONAL OFFICE STAFF  
ALL JOB CORPS REGIONAL OFFICE STAFF  
ALL JOB CORPS CENTER DIRECTORS  
ALL JOB CORPS CENTER OPERATORS  
ALL NATIONAL TRAINING AND SUPPORT CONTRACTORS  
ALL OUTREACH, ADMISSIONS, AND CTS CONTRACTORS  
ALL CENTER USERS

FROM: LENITA JACOBS-SIMMONS  
National Director  
Office of Job Corps

A handwritten signature in blue ink that reads "Lenita Jacobs-Simmons".

SUBJECT: Electronic Policy and Requirements Handbook Change: *Requirement for Operator Background Checks and Credential Verification for Employees of Job Corps Contractors*

1. **Purpose.** To establish a criminal background check and credential verification policy for Job Corps contractor employees that must be followed by all Job Corps Center Operators and other Job Corps contractors, including all sub-contractors.
2. **Background.** As a training program for at-risk and disadvantaged young adults, providing a safe and secure learning and living environment is critical to the success of the Job Corps program. Recent developments, including concerns raised by the Department of Labor's Office of Inspector General (OIG), have alerted Job Corps that its contractors and subcontractors have not consistently conducted criminal background checks for employees who work around students. Accordingly, the Job Corps electronic Policy and Requirements Handbook (ePRH) now requires that all Job Corps contractors,<sup>1</sup> including any subcontractor of a Job Corps contractor, conduct a criminal background check on current employees and any applicants for employment to whom an offer of employment is intended prior to making the offer of employment. Further, Job Corps Center Operators, other contractors, and subcontractors must also verify that, where applicable, these individuals are in good standing with the licensing body for their profession.

This new policy was prompted by recent incidents at Job Corps centers, as well as the OIG's March 31, 2017, report, *Review of Job Corps Center Safety and Security* (No. 26-17-001-03-370). In its report, the OIG faulted Job Corps for not establishing a policy addressing background checks for all center employees. The OIG alleged that by not doing so,

<sup>1</sup> In addition to operators of contract centers, this policy applies to employees, applicants, and contractors at Civilian Conservation Centers (CCC) operated by the U.S. Forest Service under the Interagency Agreement between the U.S. Department of Labor and U.S. Department of Agriculture.



“Job Corps may have placed students at increased risk of harm from prior criminal offenders by allowing potentially dangerous offenders on campus.” The OIG recommended that Job Corps “[d]efine the types and frequency of background checks for the different employment positions within centers and the criminal histories that would disqualify individuals from employment.” Job Corps agreed with this recommendation, and pledged to develop a written background check policy.

The National Office is also troubled by recent incidents in which Job Corps Center Operators’ staff has attacked or exploited its students, which the OIG highlighted in its report. For example, in 2014, a former security guard at the Springdale Job Corps Center in Oregon pleaded guilty to sexually assaulting a Job Corps student in 2012. The security guard had a criminal history, including prostitution and fraud. In May 2015, a Registered Nurse (RN) at the Iroquois Job Corps Center forged a student’s prescription to use the medication herself. The RN had a previous felony controlled-substance conviction. These incidents, in concert with the OIG’s findings, have led the National Office to conclude that its Center Operators and other contractors must gather more comprehensive information about the individuals in whom they entrust the safety and security of Job Corps students. This information gathering is especially critical for a program such as Job Corps, in which at-risk and disadvantaged students predominantly live at the locations where they train. Accordingly, Job Corps now institutes this policy for all Center Operators and contractors, including subcontractors.

3. Reference. PRH Change Notice 15-09, *Policy and Requirements Handbook (PRH) Revision to Exhibit 3-1, Infractions Levels, Definitions, and Appropriate Center Actions, and Corresponding Chapter, Exhibit and Appendix Changes*, issued February 4, 2016.

4. Explanation of Change(s).

### **General requirements**

The ePRH now establishes a systemwide policy requiring *all* Job Corps contractors, including all subcontractors, to perform background checks on current employees and job applicants to whom an offer of employment is intended prior to making the offer of employment. In addition to reviewing criminal history, this policy requires the verification of credentials of all individuals who must be licensed or otherwise credentialed to work in their profession under state or Federal law. It must be verified that these individuals are members in good standing with the licensing body or regulatory authority for their profession.

### **Ensuring quality and consistency of criminal history information**

To ensure the quality and fairness of these background checks, the new policy requires that all Center Operators and other contractors, including all subcontractors, conduct background checks using a third-party vendor. Background checks also must comply with the requirements of the Fair Credit Reporting Act. Determinations based on criminal history must be based only on conviction records, not arrest records or unprosecuted criminal charges. The National Office believes that records of a conviction are the most reliable information and best indicators of criminal history because they document situations in which it has been determined by a court



that an individual committed a crime. To gather a full picture of an individual's criminal history, the operator, contractor, or subcontractor should review convictions pulled from a nationwide stream of criminal history information that reports both Federal convictions and state convictions, including convictions from states other than the one where the center is located.

### **Convictions that disqualify an individual from employment at a Job Corps center**

For all positions with Job Corps Center Operators, contractors, and subcontractors, employees and applicants are automatically disqualified if they have ever been convicted or found responsible in a juvenile adjudication of murder, child abuse, rape, or sexual assault. These disqualifying convictions align with those identified in the Workforce Innovation and Opportunity Act, which prohibits the enrollment of applicants convicted of one of these offenses. Job Corps believes disqualification of current and potential employees with these convictions is critical to maintaining the safety and security of a predominantly residential training program for at-risk and disadvantaged young adults.

Employees working in health and wellness at Job Corps centers or with access to prescription medications, as well as applicants for such positions, are disqualified from employment in those positions if they have been convicted or released from incarceration within the past 7 years for drug-related offenses or offenses involving fraud, theft, or deception. Given the drug-related incidents discussed in the "Background" section above, the Workforce Innovation and Opportunity Act's zero-tolerance policy regarding drug use in Job Corps, and state laws requiring criminal background checks for individuals working in similar positions,<sup>2</sup> the National Office has determined that this disqualification policy is necessary to ensure the proper care of medication at Job Corps centers.

### **Requirements for determining and documenting whether and how other convictions factor into employment decisions**

For all other convictions, a contractor or subcontractor must make employment decisions only based on the relevance of the convictions upon the duties of the position. This means that contractors or subcontractors must conduct a documented review of the duties of the position and assess whether the conviction impacts their ability to perform those duties in a responsible way. Specific requirements for these individualized assessments, as well as limits on inquiring about criminal history, are detailed in ePRH 5.2 R5(d). Documentation requirements for both applicants and hires are discussed at R5(f).

### **Background Check Frequency**

In order to maintain safe and secure Job Corps centers, PRH 5.2 R5(g) requires that contractors and subcontractors conduct a new background check for each employee every 3 years. This will also allow Job Corps contractors and subcontractors to maintain current records for all employees and reduce the risks to students and staff at the center.

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<sup>2</sup> For example, California, where seven Job Corps centers are located, requires those who seek to work as pharmacy technicians submit to a background check. *See* Cal. Bus. & Prof. Code § 4202(c).



## **Credentialed and in Good Standing**

ePRH 5.2 R5(h) requires that Job Corps contractors and subcontractors verify that all employees and applicants that will be offered employment have obtained all licenses, certifications, or other credentials required under state and Federal law. That they are otherwise members in good standing with the licensing body or regulatory authority for their profession must also be verified. For Job Corps contractors and subcontractors, these individuals may include security guards, nurses, and other health-and-wellness staff. This verification is integral to ensuring that students and staff receive safe, quality services from these professionals.

## **Seeking limited exceptions for the hiring restrictions created by this policy**

ePRH 5.2 R5(i) allows Center Operators and other contractors to request an exception to this policy in writing. Job Corps understands that, as a program where many participants have had past contacts with the criminal-justice system, it can be extraordinarily helpful to expose students to individuals who rehabilitated their lives after committing serious crimes, and now are in steady, impactful employment.

Similarly, Center Operators and contractors may use this exception to request waivers for current employees for whom background checks report criminal history that could or should disqualify them from a Job Corps position under this policy. These individuals may continue to work in their current positions if the Center Operator or contractor demonstrates to the National Director that the individuals' period of service without serious incident outweighs the risk and impact of their prior convictions on their ability to safely perform the duties of the Job Corps program.

## **Continued use of Center Operator's existing background check procedures**

Job Corps contractors and subcontractors may continue to use any existing criminal background check procedures that are stricter than those set out in the attached policy, provided those procedures do not conflict with the requirements of the Job Corps policy. A contractor's or subcontractor's existing policies contract must be modified if it is less stringent than or otherwise inconsistent with the requirements set out in the new ePRH 5.2 R5.

## **Inquiries and confidentiality of background information**

When asking employees and applicants questions about their criminal records, these inquiries must be consistent with business necessity, meaning these questions must be limited to convictions that exclude or could exclude an individual from conducting the specific duties of a position. Any information gathered on an employee or applicant for the purposes of this policy must be kept confidential, and used only for the purpose for which it was intended.

5. Action Required. Background checks for current contractor employees must be conducted within six months of the effective date of this notice. Certification of completion must be provided to the contractor's Contracting Officer Representative.

Addressees are to ensure this Change Notice is distributed to all appropriate staff.

6. Effective Date. Immediately
7. Inquiries. Inquiries should be directed to Stephanie Fichter at (202) 693-3732 or [fichter.stephanie.a@dol.gov](mailto:fichter.stephanie.a@dol.gov).

Attachment