

POLICY AND PROCEDURE

REACH for Tomorrow

POLICY: RC-900-B

TITLE: Personnel Qualification for Services Providers for Children under 18 for Mental Health and SUD

EFFECTIVE DATE: 8/16/21

AUTHORIZED BY: Board of Trustees

In addition to RC-900 services offered to children and adolescents under 18 years of age shall assure:

(1) Each employee utilized in positions which are responsible for the direct care or supervision of children or adolescents shall be at least eighteen years of age.

(2) Any prospective employee, volunteer or student intern shall not have pled guilty to nor been convicted of any of the offenses listed in paragraph (I) of rule 5101:2-5-09 of the Administrative Code.

I) An agency shall document that any person hired after October 29, 1993 as administrator, child care staff, caseworker, or in any other position responsible for a child's care in out-of-home care shall not have been convicted of or pleaded guilty to any of the offenses listed in appendix A (see at end of this policy) to this rule except as provided in paragraph (J) of this rule.

J) Unless specifically prohibited in appendix A to this rule, a prospective employee convicted of or who has pleaded guilty to an offense listed in appendix A to this rule may be hired by an agency as an administrator, child care staff or caseworker, or in any other position responsible for a child's care in out-of-home care only if the following rehabilitative criteria has been met:

(i) Where the offense was a misdemeanor, or would have been a misdemeanor if conviction had occurred under the current criminal code, at least three years have elapsed from the date the prospective employee was fully discharged from any imprisonment or probation arising from the conviction. A prospective employee who has had a misdemeanor record of conviction sealed by a court pursuant to section 2953.32 of the Revised Code shall be considered to have met this condition.

(ii) Where the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation.

(iii) The victim of the offense was not one of the following:

(a) A person under the age of eighteen or a person sixty years of age or older.

(b) A functionally impaired person as defined in section 2903.10 of the Revised Code.

(c) An intellectually disabled person as defined in section 5123.01 of the Revised Code.

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(d) A developmentally disabled person as defined in section 5123.01 of the Revised Code.

(e) A person with a mental illness as defined in section 5122.01 of the Revised Code.

(iv) Hiring the prospective employee will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors shall be considered in determining whether to hire the prospective employee:

(a) The person's age at the time of the offense.

(b) The nature and seriousness of the offense.

(c) The circumstances under which the offense was committed.

(d) The degree to which the person participated in the offense.

(e) The time elapsed since the person was fully discharged from imprisonment or probation.

(f) The likelihood that the circumstances leading to the offense will recur.

(g) Whether the person is a repeat offender.

(h) The person's employment record.

(i) The person's efforts at rehabilitation and the results of those efforts.

(j) Whether any criminal proceedings are pending against the person.

(k) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in paragraph (K)(1) of this rule, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled.

(l) Any other factors the agency considers relevant.

A prospective employee, adult volunteer or student intern convicted of or who has pleaded guilty to an offense listed in paragraph (l) of rule 5101:2-5-09 of the Administrative Code may be hired by a provider if the conditions as provided in paragraph (H) of rule 5101:2-5-09 of the Administrative Code have been met.

H) The agency may refuse to hire or appoint a person as a board president, administrator or officer

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as follows:

(i) Based solely on the findings of the summary report as described in paragraph (G)(1) of this rule or the results of the search described in paragraph (G)(4) of this rule.

(G)(1) Conduct an alleged perpetrator search as described in paragraph (P) of this rule. The process can be found at: <http://jfs.ohio.gov/ocf/childprotectiveservices.stm>.

P) If the agency has the ability to complete the search in the statewide automated child welfare information system (SACWIS), the agency is to complete an alleged perpetrator search of abuse and neglect report history through the system for each prospective employee. If the agency does not have the ability to complete the search in SACWIS, the agency is to request a search of the system from ODJFS for each employee and prospective employee.

(i) The agency is to request a check of the child abuse and neglect registry of any other state a prospective employee has resided in the five years immediately prior to the date of the criminal records check as required by division (A) of section 2151.86 of the Revised Code. The process can be found at:
<http://centerforchildwelfare.fmhi.usf.edu/ChildProtective/AdamWalsh.pdf>.

(ii) A report with the results of the search is to be placed in the applicant or employee's record.

(iii) This report is to be used to determine the suitability of the applicant or employee to provide care to children.

(G)(4) Conduct a search of the United States department of justice national sex offender public website. The website is located at: <https://www.nsopw.gov/>.

(ii) Based on the results of the certified search or database review as described in paragraphs (G)(2) and (G)(3) of this rule.

(G)(2) Request a certified search of the findings for the recovery database. The website is located at: <http://ffr.ohioauditor.gov/>.

(G)(3) Conduct a database review at the federal website known as the system for award management. The website is located at:
<https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>.

(3) Criminal record background checks on employees, volunteers and student interns are conducted by the bureau of criminal identification and investigation (BCII), or any other state or federal agency designated by the director, and, if the prospective employee does not demonstrate that they have been a resident of Ohio for the preceding five years, by the federal bureau of investigation (FBI).

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APPENDIX A - OFFENSES LISTED IN PARAGRAPH (I) OF RULE 5101:2-5-09 OF THE ADMINISTRATIVE CODE

OFFENSES AGAINST ANIMALS

R.C. 959.13-- Cruelty to animals

HOMICIDE

R.C. 2903.01-- Aggravated murder

R.C. 2903.02-- Murder

R.C. 2903.03-- Voluntary manslaughter

R.C. 2903.04-- Involuntary manslaughter

ASSAULT

R.C. 2903.11-- Felonious assault R.C. 2903.12-- Aggravated assault R.C. 2903.15-- Permitting child abuse

R.C. 2903.13-- Assault

R.C. 2903.16-- Failing to provide for a functionally impaired person

MENACING

R.C. 2903.21-- Aggravated menacing

R.C. 2903.211-- Menacing by stalking

R.C. 2903.22-- Menacing

PATIENT ABUSE AND NEGLECT

R.C. 2903.34-- Patient abuse, neglect

KIDNAPPING AND RELATED ISSUES

R.C. 2905.01-- Kidnapping

R.C. 2905.02-- Abduction

R.C. 2905.04-- Child stealing (as this law existed prior to July 1, 1996)

R.C. 2905.05-- Criminal child enticement

SEX OFFENSES

R.C. 2907.02-- Rape

R.C. 2907.03-- Sexual battery

R.C. 2907.04-- Unlawful sexual conduct with a minor

R.C. 2907.05-- Gross sexual imposition

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R.C. 2907.06-- Sexual imposition
R.C. 2907.07-- Importuning
R.C. 2907.08-- Voyeurism
R.C. 2907.09-- Public indecency
R.C. 2907.12-- Felonious sexual penetration (as this former section of law existed)
R.C. 2907.21-- Compelling prostitution
R.C. 2907.22-- Promoting prostitution
R.C. 2907.23-- Procuring
R.C. 2907.25-- Prostitution; after positive HIV test
R.C. 2907.31-- Disseminating matter harmful to juveniles
R.C. 2907.32-- Pandering obscenity
R.C. 2907.321-- Pandering obscenity involving a minor
R.C. 2907.322-- Pandering sexually oriented matter involving a minor
R.C. 2907.323-- Illegal use of a minor in nudity-oriented material or performance

ARSON

R.C. 2909.02-- Aggravated arson
R.C. 2909.03-- Arson
R.C. 2909.22-- Soliciting or providing support for act of terrorism
R.C. 2909.23-- Making terroristic threat
R.C. 2909.24-- Terrorism

ROBBERY AND BURGLARY

R.C. 2911.01-- Aggravated robbery
R.C. 2911.02-- Robbery
R.C. 2911.11-- Aggravated burglary
R.C. 2911.12-- Burglary

THEFT AND FRAUD

R.C. 2913.49-- Identity Fraud

OFFENSES AGAINST THE PUBLIC PEACE

R.C. 2917.01-- Inciting to violence
R.C. 2917.02-- Aggravated riot

OFFENSES AGAINST THE FAMILY

R.C. 2919.12-- Unlawful abortion
R.C. 2919.22-- Endangering children
R.C. 2919.23-- Interference with custody (that would have been a violation of R.C. 2905.04 as it existed)

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prior to July 1, 1996 if violation had been committed prior to that date)

R.C. 2919.24-- Contributing to unruliness or delinquency of a child

R.C. 2919.25-- Domestic violence

WEAPONS CONTROL

R.C. 2923.12-- Carrying a concealed weapon

R.C. 2923.13-- Having a weapon while under disability

R.C. 2923.161-- Improperly discharging a firearm at or into a habitation , in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function.

DRUG OFFENSES

R.C. 2925.02 -- Corrupting another with drugs

R.C. 2925.03 -- Trafficking in drugs

R.C. 2925.04 -- Illegal manufacture of drugs or cultivation of marihuana

R.C. 2925.05 -- Funding of drug or marihuana trafficking

R.C. 2925.06 -- Illegal administration or distribution of anabolic steroids

R.C. 2925.11 -- Possession of drugs or marihuana that is not a minor drug possession offense

OTHER

R.C. 2927.12-- Ethnic intimidation

R.C. 3716.11 -- Placing harmful objects in food or confection

R.C. 4511.19-- Operating vehicle under the influence of alcohol or drugs – OVI or OVUAC