FREQUENTLY ASKED QUESTIONS

NATIONAL SERVICE CRIMINAL HISTORY CHECKS

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Table 1: Designated Statewide Criminal History Repositories

FREQUENTLY ASKED QUESTIONS

1. Programs Covered by the Regulations

1.1. What programs are covered by the Corporation's requirements for criminal history checks? (Updated 7/16/2010)

Under the Serve America Act (SAA), all grantees must conduct criminal history checks on participants in AmeriCorps, Learn and Serve, Foster Grandparent, and Senior Companion Programs, as well as on all employees and others who receive a salary, national service education award, living allowance, or stipend under Corporation grants, even if the activities don't involve service with vulnerable populations. Summer of service awards are not considered national service education awards. For the RSVP and VISTA programs, grantees are not required to conduct criminal history checks on their volunteers; however, RSVP and VISTA grantees are required to conduct criminal history checks on all employees who receive part or all of their salary from the respective program grant. The new requirements took effect on October 1, 2009. Beginning in April 2011, programs will also be required to conduct FBI background checks on covered individuals who will be working with vulnerable populations.

1.2. Is a criminal background check required for an EAP members and site supervisors who do not receive their living allowance or salary from the grant?

All of the grantee staff positions identified under a regular AmeriCorps grant (competitive, formula, national direct, and others, if created where grantees must identify their program's employee positions on a budget), are subject to the background check rules. So are the members, because they receive an education award from the Trust. However, staff working under an EAP grant are not subject to the background checks because the minimal fixed level of federal assistance requires the grantee to pay for, outside of the grant, the great majority of program costs, including employee salaries. However, EAP grantees are encouraged to develop a prudent criminal history check policy appropriate to their program design and populations served.

1.3. How does this new requirement apply to the fixed amount grants authorized under the Serve Act?

Checks must be conducted on all AmeriCorps members because they receive education awards. Section 189D of the National and Community Service Act requires National Service Criminal History checks for individuals receiving a living allowance, stipend, national service education award, or salary through a program receiving assistance under national service laws. Since full-cost fixed amount grants are awarded using funding appropriated under national service laws, and full-cost fixed amount grants will provide a level of assistance that is likely to pay for some portion of required living allowances or staff salaries, full-cost fixed amount grants are covered under Section 189D of the SAA. Coverage is consistent with the intent of requiring background checks for all programs that support activities performed in communities. Because of the minimal level of federal support for Education Award Program and Professional Corps fixed amount grants, criminal history checks are not required for staff. However, members must still be checked because they receive an education award from the Trust.

2. National Service Criminal History Check

2.1. What is a National Service Criminal History Check?

A National Service Criminal History Check consists of:

- a search of statewide criminal history records (usually consisting of law enforcement and court records) by name and/or fingerprint performed for the candidate's state of residence and the state where the individual will serve or work; and,

- a nationwide National Sex Offender Public Registry (NSOPR) check, which consists of a web-based check of a centralized system which reports on individuals who are required by their States to register as sex offenders in the states and territories.

The NSOPR is a no-cost Internet-based system operated by the U.S. Department of Justice. The system gathers data from all participating state-level sex offender registries plus those operated by Guam, Puerto Rico, and the District of Columbia. While the system permits users to focus their check upon a narrow geographic area, the required nationwide NSOPR check must be performed on a national level, i.e., the user may not restrict the search to a single state or address. Please note: the NSOPR is also commonly known as the National Sex Offender Public Website, NSOPW.

2.2. What if my State has a separate criminal history background check requirement that is similar to the Corporation's requirements?

The Corporation is prepared to review requests for alternative search procedures (ASP) where a duly-authorized State or local body has established substantially equivalent requirements. A teacher corps, whose members are all public school district employees screened and licensed pursuant to a State-controlled governmental authority, would be one example of such an alternate system that would satisfy the criteria for an ASP. Note that if a State's requirements are identical to the Corporations in that they use the NSOPR as well as the same designated statewide repositories, or a nationwide FBI check, then there is no need to request an ASP.

2.3. Why not just require an FBI Check? (Updated 7/16/2010)

At this time, not every grantee has access to the FBI system, so we could not require it of every grantee. Also, for technical reasons, meaningful differences can exist where a state repository has more current information than the FBI system. Because the Serve America Act requires FBI checks beginning on April 21, 2011, the Corporation has been working with the FBI to establish procedures for our grantees to obtain direct access to FBI background checks, as well as to ensure that only appropriate checks are conducted.

2.4. Are the criminal registry and NSOPR checks the only applicant screening mechanisms that my program should use to determine an applicant's suitability?

These checks are only part of the overall applicant screening process, which should also include a comprehensive interview and personal reference checks. However, these additional measures are not required by the Corporation.

3. Statewide Criminal History Check

3.1. How do I find out what statewide criminal records to check?

All states, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands have statewide criminal registries The Corporation has designated specific registries in each state that can be found on pages 108-112 in the *Staff Screening Tool Kit* (along with contact addresses and phone numbers); go to www.nationalservice.gov/screeningtoolkit. While many states have more than one registry, the use of any source other than those designated by the Corporation requires approval of an alternate search protocol (ASP) from the Director, Office of Grants Management. The Corporation is in the process of reviewing those other registries to determine if they provide equivalent information. See attached Table 1, *Designated Statewide Criminal History Repositories* for a consolidated list of the Corporation-designated state registries and our determinations to-date of alternative state registries which provide equivalent data.

3.2. **We operate a nationwide program that places individuals in many states; does that mean that each individual needs to be checked for their state of residence plus every state that our program operates in?**
Nationwide programs do not need to check more than two statewide repositories for any candidate. The statewide repository for the state where the applicant resided upon application, and the statewide repository for the state where the individual will predominately be assigned to serve, must be checked. We encourage nationwide programs to secure FBI checks if possible, in lieu of performing state-specific checks.

3.3. **How far back do criminal history checks maintain data and how many years must I check?**
You must obtain data as far back as the designated statewide criminal history repository provides criminal history data. Many for-profit background check vendors limit the data that they provide to a period of the last seven years to ensure that they do not run afoul of some state laws that limit the release of background check information for employment purposes. If you or your vendor obtains anything less than a search as far back as the designated repository would provide, you must request an ASP. It is highly unlikely that the Corporation would approve an ASP to allow background checks based on less than all available criminal history records unless access to the designated repository is not possible or access to older records is clearly prohibited by state law.

3.4. **Does an FBI check satisfy the State criminal registry check requirement?**
Yes, an FBI fingerprint check will satisfy the state criminal registry record check requirement, but it does not satisfy the required search of the NSOPR.

4. National Sex Offender Public Registry

4.1. **Is a check of just my State's sex offender registry sufficient to satisfy the NSOPR search requirement?**
No. You must check the National Sex Offenders Public Registry. The goal is to check as many States as possible and the NSOPR is the most effective method of achieving this goal.

4.2. **Which state(s) should I search on the NSOPR website?**
You must conduct a nationwide search of the NSOPR. A standard search provides nationwide data. Do not use the advanced search tool to limit the geographic area of the search.

4.3. **If the FBI check captures crimes that are also identified on the sex offender registry, why is the Corporation requiring separate checks of the NSOPR?**
The National Sex Offender Public Registry produces immediate results while it may take several weeks or more to receive the FBI results. In addition, it is also possible that an individual could be convicted of a crime and required by the court to register on that state's sex offender system, but not have been flagged in the FBI's fingerprint database as having committed a sex offense.

4.4. **What do I do if I find an individual listed on the NSOPR who has the same name as an applicant?**
In these situations, you must conduct a more in-depth inquiry to determine whether the individual who appears on the NSOPR is your applicant or is someone with the same name. In such cases, the statewide criminal history search should provide critical information.

4.5. **How do I document an NSOPR check?**
You must retain a record of the NSOPR search and associated results either by printing the screen(s) or by some other method that retains the digital images of the checks and results.

4.6. **What steps should I take if I discover that several States' sex offender registry sites are inoperative when I am conducting the NSOPR check on an applicant?**
As a best practice, it would be prudent to re-check the NSOPR at a later date in order to rule out the possibility that the applicant may be registered in those States. If a particular state no longer participates in the NSOPR database, it also is a best practice to directly check the registry for that state. However, so long as the NSOPR system is operational, you are only required to perform the check one time.

5. Individuals Subject to National Service Criminal History Checks

5.1. **What is a "Covered Position?"**
A covered position is the term applied to any individual receiving a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws regardless of the type of employment or service the individual is performing or the individual's access to vulnerable populations. The position is covered if it is supported under the grant through either federal or grantee share funding.

5.2. **How do we know if our employees are subject to the National Service Criminal History check requirements?**
The requirements cover employees whose positions and salaries are supported in part or in whole by the Corporation grant, either as the Corporation share or the grantee share. Review your program's budget to identify staff supported under the grant. Those staff members must have criminal history checks which include both the NSOPR as well as statewide criminal history repository searches.

5.3. **Why doesn't the final rule cover community volunteers who are recruited by national service grantees?**
The Serve America Act (SAA) and the Corporation's regulations establish coverage only for individuals who have an individually identifiable connection to the Corporation associated with receiving financial compensation of the types identified in the SAA (i.e. a national service education award, stipend, living allowance, or salary). Community volunteers do not have this required connection and, therefore, are considered "unaffiliated." Consequently, while grantees are subject to State law duties of care in supervising community volunteers, there is no Corporation requirement to perform checks for this category of volunteers.

5.4. **Does the requirement cover Learn and Serve, VISTA, and NCCC?**
Learn and Serve participants who receive a stipend or national service education award, and grant-funded staff under these programs, are covered individuals under the Serve America Act and must have National Service Criminal History Background Checks. The Summer of Service education award is not considered a stipend or national service education award; therefore, Summer of

Service participants are not subject to National Service Criminal History Background Checks if that is the only type of financial relationship they have with the Corporation's programs.

NCCC is a Federally-operated program, where the selection of participants is made by Federal personnel and the internal screening procedures are conducted through an arrangement with the U.S. Office of Personnel Management. Therefore, sponsor organizations and site placements are not required to perform background checks on an NCCC participant.

VISTA is also a Federally-operated program. Federal personnel retain the authority to approve the selection of participants in VISTA. Internal screening procedures are conducted by CNCS Federal personnel. Thus, sponsor organizations and site placements are not required to perform background checks on a VISTA participant. However, programs funded through a VISTA program grant awarded to a non-federal entity are subject to the background check rules to the extent in that the grantee must perform checks on their grant-funded employees who are working for the program (e.g., employees of the VISTA sponsor who serve as VISTA program supervisors at the sponsor and receive part or all of their salary from the VISTA program grant).

5.5. **Are minors subject to National Service Criminal History Checks?**
Any individual, no matter his or her age, who applies to serve in a covered position must have a National Service Criminal History Background Check. Minors' criminal history records are generally unavailable, unless the minor was charged as an adult for committing a crime. When your program conducts a check on a minor, you may receive a "sealed" response. That response i indicates that the minor has not been charged as an adult for a crime, and it should be kept as documentation that the check was conducted.

5.6. **Do programs have to conduct criminal history checks on individuals who are living outside of the United States at the time they apply for a covered position?**
Yes. In addition to an NSOPR check, the individual's last state of residence in the United States, as well as the State where the program operates, must be checked. If the individual never lived in the United States, then only the state where he or she will serve is required to be checked. Programs are also strongly encouraged to perform additional checks, including with other countries whenever possible.

5.7. **Do you have to conduct checks on administrative staff that allocate time to the program indirectly, or on consultants?**
You are not required to conduct checks on staff whose time is allocated to the program as part of an indirect cost rate pool or similar agreement. These individuals hold positions which are not individually identified on the grant budget. Non-staff positions on program grants paid as consultants or contractors are not subject to criminal history background checks. However, grantees are encouraged to develop a prudent criminal history check policy addressing consultants and administrative staff appropriate to their program design and populations served.

5.8. **Does the requirement to conduct background checks on staff apply to state commission staff?**
Regarding AmeriCorps commission staff, because the intent of the Corporation's criminal history background check regulations was to only establish requirements at the program operation level, unless a state commission is directly operating a program, commission staff do not need to be checked. Therefore, AmeriCorps commission Administrative, Program Development and Training (PDAT), and Disability grant staff may not need to be checked.

5.9. **What about staff at state education agencies that grant Learn and Serve funds, but do not operate Learn and Serve programs?**
Since state agencies that receive Learn and Serve funds may participate at the program operation level, grant-funded staff at those agencies must receive National Service Criminal History Background Checks.

5.10. **What about staff of other organizations who supervise AmeriCorps members placed to serve in those other organizations?**
Supervisors included on the budget as part of the grantee share must have the required checks. If they aren't identified in the grant budget, you do not have to conduct the checks. However, a Corporation grant budget should identify all major items of cost, including positions necessary to conduct a successful program. If site supervision of participants is necessary, then the individuals performing that role should be listed on the grant budget, even if they are entirely paid by the placement site organization. Grantees are encouraged to develop a prudent criminal history check policy addressing supervisors and administrative staff who do not need to be included on a grant budget, appropriate to their program design and populations served.

5.11. **Should my program perform checks on individuals who are otherwise not required to have a check?**
Your program may choose to conduct criminal history checks on non-covered individuals as an effective risk management tool, and may include this as a program operating cost (or volunteer support expense) in your grant budget proposal.

5.12. **What happens when someone leaves one program and begins service in another?**
If a participant or employee leaves a program and begins service with another program, the new program must conduct both state criminal registry and NSOPR checks on the individual.

5.13. **When do programs have to do another National Service Criminal History check?**
A program must conduct a criminal registry check and NSOPR check the first time an individual applies to a position. A second check is not required for participants who are serving a consecutive term of service within the same program. A consecutive term of service means that there is no break in service of more than 30 days. If an individual applies for a term of service or employment with a different program, with or without any break in service, a new National Service Criminal History check is required.

5.14. **If I conduct a check on an applicant, then the applicant defers service for a year, do I have to conduct a new check?**
A one-year deferral of service that does not include reapplication, does not require a new background check. CNCS recommends, however, that programs develop a written policy on how to handle background checks for members who defer service.

5.15. **Our program receives thousands of applications for a few hundred positions; performing checks on everyone who applies for a position or to serve can be very burdensome and expensive. Is there a better way to manage this workload?**
You need only perform National Service Criminal History checks on viable applicants. Therefore, if you receive a large volume of applications, but screen many of them as unsuitable for other reasons (e.g., unqualified; incomplete applications; not eligible due to citizenship; etc.), you may perform checks on only the ones you deem viable. Your background check procedures should explicitly define the point at which applicants will be checked. Under no circumstances may an individual be enrolled or performed without first having cleared the NSOPR component of the check.

6. How to Perform National Service Criminal History Checks

6.1. **Are there any required steps that I must take when performing the checks?**
Yes, the regulations require that you verify identity; obtain written authorization; document understanding that selection is subject to the checks; provide opportunity for review of findings; keep the information confidential; ensure that those with pending checks are accompanied when in contact with vulnerable populations; maintain the results of the checks; document that you conducted the required checks, and document that you considered the results of the checks. Any variance from the required procedures requires Corporation approval of an ASP.

6.2. **How far in advance of participation in a program should we conduct the search?**
The regulations say that checks are to be performed when someone applies to serve or to be employed.

6.3. **Can we use pre-existing background checks?**
Any checks obtained prior to application to serve or application to be employed would require another check. If your program routinely encounters candidates who for some consistent reason have pre-existing checks (e.g., teachers who have already been licensed by a state), you may describe the circumstances in an ASP request for consideration by the Corporation.

6.4. **Do we have to conduct a criminal registry check and NSOPR check every year for each participant?**
No. Statewide criminal registry checks and NSOPRs are required only once for any individual who applies to work or serve in a covered position in a Corporation-sponsored program. If there is a break in service greater than 30 days, then the entire National Service Criminal History Check must be performed again.

6.5. **Does administrative leave, sick leave, summer breaks, or not actively working with a client constitute a break in service?**
No, a break in service means that a participant is no longer enrolled in a program or an individual is no longer an employee; e.g. Participants who are teachers and remain employed in their positions over the summer break are still enrolled and a new check is not required. If the volunteer subsequently re-enrolls in that same program, or enrolls in a different program, all applicable criminal history checks must be conducted.

6.6. **How do I verify the identity of an applicant?**
You must require the applicant to produce a government-issued photo identification card.

6.7. **What types of documents are considered to be government-issued photo identification cards?**
Government-issued photo identification cards include, but are not limited to, state drivers' licenses, non-driver photo IDs issued by states' Department of Motor Vehicles and federally-issued photo IDs, including official passports.

6.8. **Is a student ID issued by a school or college considered government-issued?**
A student ID is only considered government-issued if the institution is a public school or university. Private school IDs are not government-issued.

6.9. **What if a program neglects to follow the required procedures?**
In addition to incurring potential liability, Corporation grantees who do not comply with the criminal registry check and NSOPR requirements risk loss of Corporation funding, or questioned costs regarding the individuals on whom checks were not performed. Further, if a grantee enrolls or hires an individual who should have been deemed ineligible, the Corporation may disallow costs attributable to the ineligible individual.

6.10. **Why doesn't the rule bar someone from serving until the criminal registry results are received?**
The rule bars enrollment or employment until an individual has been checked against the NSOPR sex offender system. An individual listed on a sex offender registry, or required to be listed, is not eligible to serve or be employed in a grant-funded position. Because statewide criminal registry check results can sometimes take weeks or more to complete, the rules do not prohibit an individual from serving while that check is pending. However, the individual <u>may not have unsupervised access to children, persons age 60 and older, or individuals with disabilities while waiting for the results of the state criminal registry check. The individual (including grant-funded staff) must be physically accompanied at all times by either a participant or staff member who has been cleared for such access.</u>

6.11. **Must the individual providing supervised access have undergone a National Service Criminal History Check, or would some other type of clearance be accepted?**
Clearance for the individual providing the accompaniment, if they are not in a grant-funded position, need not be a National Service Criminal History check. That individual's clearance may have been provided through the normal clearance processes used at the placement site. For example, if a participant requires supervised access in a nursing home environment, the accompaniment may be performed by any individual that the nursing home has cleared for access through its normal processes which might only require a sex offender check, not a statewide criminal history check.

6.12. **What if an applicant refuses to consent to a state criminal registry check?**
The applicant will not be eligible to serve in a covered position unless he or she consents. No consent is needed to search the NSOPR because this is a public site.

6.13. **If we de-select an individual for an AmeriCorps position based on criminal history, can we refill that position?**
By policy, eligible programs that have fully enrolled their awarded member slots are allowed to replace any member who terminates service before completing 30 percent of his or her term. A fully-enrolled grantee that seeks to re-fill a position after the 30 percent cut-off may seek an exception by writing to the Corporation's AmeriCorps program office.

6.14. **Our Senior Corps sponsoring organization has only a few staff and relies totally on the volunteer stations to screen and select the senior volunteers. Why does the requirement fall on us rather than the volunteer station?**
The Corporation grant is awarded to the sponsoring organization, and the sponsoring organization is responsible for compliance with the terms and conditions of the grant. You may, by agreement, assign the task of conducting and documenting the National Service Criminal History checks to your volunteer stations. However, doing so does not eliminate your responsibilities as a grantee to ensure that the checks are completed, documentation describing the determination of eligibility is retained and records are accessible for oversight and review. If you assign the background check responsibility to a volunteer station, you should establish clear requirements to perform fully compliant checks as well as monitoring polices and procedures to ensure checks are conducted and

documented. If the volunteer station has its own established background processes, you may wish to consider submitting them to the Corporation for consideration as an alternate search protocol.

7. How to Document a National Service Criminal History Check

7.1. **Does the final rule require my program to keep the actual results of the criminal history check?**
Yes. Unless prohibited or limited by State law, you must maintain the results in a secure location. If there is a prohibition to retention of the records, you must obtain an ASP.

7.2. **What if my state either doesn't allow my program to maintain the results of the actual criminal registry or NSOPR check or limits the amount of time that results can be maintained?**
The final rule requires you to retain the criminal registry or NSOPR results. Therefore, if your state law prohibits or limits you in retaining this written documentation, you must explain the circumstances and request an ASP from the Corporation. While waiting for the ASP decision, you should comply with State law and document in writing that you or your designee considered the results of the criminal registry and NSOPR check in selecting the applicant.

7.3. **What are some of the practical implications of maintaining the results of the criminal registry check in the participant's file?**
Background check information should be maintained in a secure location under the control of an authorized records custodian, with access permitted only to individuals who have an official need to review the information (much in the same manner as personal medical information is protected).

7.4. **Some organizations (e.g. National Center for Missing and Exploited Children (NCMEC)) only provide a general finding (green, yellow, or red) and not the actual results of the criminal history check. How do I properly document the "results" of the check if I only receive these general findings? (Updated 7/16/2010)**
In the case of NCMEC, each color is based on a list of published criteria. Therefore, you should first ensure that the criteria meet the Corporation's requirements. Specifically, you should ensure that an individual who is required to register on a State sex offender registry or is convicted of murder is automatically determined to be a "red", and consequently, ineligible to serve. You may rely on the organization's judgment in the other, non-disqualifying areas as it is a matter that is within your program's discretion. Once you have established these criteria, you may consider the general finding as the "results" and maintain these in a secure location as you would the results themselves. At this time the NCMEC is the only organization with a general finding result that would be accepted by the Corporation. If you are using any other general system, it must be reviewed and approved by the Corporation as an ASP.

7.5. **Must I store background check records at the program operation location or can I centralize the records at our headquarters?**
Records may be stored at any secure location so long as they are accessible for timely routine use by the program, as well as by the Corporation for oversight and monitoring without undue cost or delay.

8. Eligibility Impact of National Service Criminal History Checks

8.1. **What background check results would make someone ineligible to serve?**
Anyone listed or required to be listed on a sex offender registry is ineligible to serve. Anyone convicted of murder as defined and described in section 1111 of title 18, United States Code is

ineligible to serve. Anyone who refuses to undergo a National Service Criminal History check may not serve.

8.2. **What if a criminal registry check discloses a criminal conviction? (Updated 7/16/2010)**
The program should give the applicant an opportunity to correct any inaccurate information and then make a judgment about whether to accept the individual. Convictions for murder or for an offense that should result in listing on the state's sex offender registry are automatically disqualifying.

8.3. **Is murder an up-front exclusion in the same way as a sexual offender identified through the NSOPR check is excluded from serving?**
Because murder convictions are determined through the statewide criminal history repository checks which could take some time, programs can enroll members or employ individuals prior to getting the state checks. However, if he or she is given access to vulnerable populations, the individual must always be supervised by someone with clearance until the check is complete. In order to reduce your risk, you could require applicants to certify on the application enrollment form that they have not been convicted of murder.

8.4. **Why is the Corporation disqualifying sex offenders and individuals convicted for murder but not those convicted of other crimes?**
Disqualifying registered sex offenders and those convicted of murder protects children, older persons, or individuals with disabilities and is consistent with our objective of establishing an achievable baseline set of screening practices. Advances in information sharing at the national level may make it possible to strengthen this baseline in the future. While the Corporation will consider adding specific disqualifying offenses in the future, for now, programs staff should exercise their own judgment in deciding whether, and to what extent, to disqualify applicants on the basis of other types of offenses.

8.5. **What is to prevent someone convicted of a serious crime from serving in a program?**
The selection of individuals to serve is the responsibility of each grantee. Establishing a baseline criminal history check will help to ensure that each grantee has sufficient information in making selection decisions. Program officials may establish their own additional selection criteria in determining an applicant's eligibility.

8.6. **My program involves individuals with criminal histories. Is there anything additional that I must do? (Updated 7/16/2010)**
In situations where an ex-offender applies to serve or work, officials may take into consideration the type of service that is to be conducted, the specific crime committed by an applicant, and the various supervisory levels that exist to manage risks associated with an ex-offender's participation in the program. However, murder and any offenses that require registration on a state sex offender registry are disqualifying offenses without exception.

8.7. **Does the rule punish those on the basis of an arrest?**
The rule does not disqualify anyone on the basis of an arrest. The preamble also notes that in certain states there are legal constraints on how an arrest record may be considered, and some statewide criminal repositories do not include arrest information in the records they release.

9. Protect Act Pilot and Other Similar Background Check Programs

9.1. **I have heard that some non-profit organizations that work with children might be eligible to obtain FBI fingerprint checks for $18. Is that true?**
Through a Congressionally authorized pilot program with the National Center for Missing and Exploited Children (NCMEC), non-profit organizations that work with children may be eligible to obtain FBI fingerprint checks for their volunteers at a cost of $18. NCMEC can answer specific questions concerning this program. The website address is www.missingkids.com. You should be aware that NCMEC is not currently accepting any new organizations, but you may consult with them by contacting Dawn Daly at 1-877-446-2632 ext, 6440. Her email is ddaly@ncmec.org.

Programs considering the use of NCMEC or SafetyNET (see below), should recognize that screening criteria used in those programs are significantly more stringent than the Corporation's regulations regarding eligibility. Currently, NCMEC rates an individual as not meeting their criteria (red result) if they have been convicted of any offense with a sexual element including victimless crimes; any controlled substance offense; any crime against a person such as assault and including the use or threat of use of force; cruelty to animals; and any felony type offense where the punishment could be a year or more incarceration. Therefore, while programs may invoke eligibility screening criteria that are more stringent than the Corporation's regulations, you should be aware of the criteria being used by the source.

9.2. **Can I obtain background checks from the recently extended Child Safety Pilot?**
On March 2, 2010, President Obama signed into law the bill to extend the Child Safety Pilot, SafetyNET — the program that allows mentoring organizations to conduct fingerprint-based criminal background checks on potential mentors through the FBI's master criminal record database in a cost-effective and timely way. The extension runs through March of 2011. SafetyNET coordinates with and obtains the background check results from NCMEC. For more information about SafetyNET, go to www.mentoring.org/safetynet, or contact Kristi Zappie-Ferradino at kzferradino@mentoring.org.

Programs considering the use of SafetyNet or NCMEC (see above), should recognize that screening criteria used in those programs are significantly more stringent than the Corporation's regulations regarding eligibility. Currently, NCMEC rates an individual as not meeting their criteria (red result) if they have been convicted of any offense with a sexual element including victimless crimes; any controlled substance offense; any crime against a person such as assault and including the use or threat of use of force; cruelty to animals; and any felony type offense where the punishment could be a year or more incarceration. Therefore, while programs may invoke eligibility screening criteria that are more stringent than the Corporation's regulations, you should be aware of the criteria being used by the source.

9.3. **Why doesn't the Corporation procure a national criminal check company to provide a standardized service to all grantees?**
The variation in criminal codes and criminal history procedures among States means that, for now, a uniform national approach does not appear feasible. However, we are monitoring the results of the PROTECT Act's (Public Law 108-21) pilot program to see if Congress will act to make a national search of FBI information more accessible nationwide. You may wish to monitor progress on legislation such as S.163, the Child Protection Improvements Act of 2009 which would amends the National Child Protection Act of 1993 to direct the Attorney General to establish a program for national criminal history background checks for child-serving organizations.

10. Schools that Perform Background Checks

10.1. **A school is performing the background checks for us. Is there anything I need to do?**
You must determine how the school, be it private or public, and/or its state licensing authority is performing background checks. If the types of checks and the procedures being used meet the Corporation's regulations, then your only obligation is to ensure that you and the Corporation have access to the records for oversight and monitoring purposes. If the school, district, or state licensing authority is not fully meeting the Corporation's procedures and performing the type of background checks required, or you and the Corporation would not have access to the records, an alternate search protocol must be requested from the Corporation.

10.2. **My program works with a school that conducts criminal history checks on its employees and volunteers (including national service participants), but doesn't permit outside entities to review the actual results of the criminal history check. How can we satisfy the documentation requirements if we are not permitted to review these results?**
The circumstances described warrant a request to the Corporation for an alternate search protocol approval (ASP). Your ASP request would need to address how you have established assurance, as well as documentation, that the background checks performed by the school ensured that only eligible individuals were selected. The ASP would also have to describe the basis for the school's position that the results could not be reviewed, or why it is not necessary for the results to be reviewed. For example, state law might prohibit examination of the results by third parties, or a public school district's licensing system may be designed to ensure that both sexual offenders and individuals convicted of murder are not permitted to serve or work in the school. The Corporation expects to approve only clear and convincing basis to prohibit examination of the results.

11. For-profit Vendors

11.1. **I purchase criminal history checks from a vendor. Do I need to request an alternate search protocol (ASP)?**
You need an ASP to use a vendor that is not checking the designated statewide criminal history registries recognized by the Corporation. It is your responsibility to fully understand what checks your vendor conducts and what sources it uses for criminal history information. If you are using a vendor to perform the sex offender NSOPR search, the vendor must use www.nsopr.gov as its source. Review the vendor's material in depth to identify which state registries the vendor uses and whether the vendor conducts statewide checks or something less than statewide (e.g., county-of-residence checks). If your vendor isn't using the Corporation recognized registry, you will have to request approval of an ASP and explain why the results you obtain from the vendor are substantially equivalent or better than searching the registry database(s) recognized by the Corporation.

11.2. **Does the Corporation maintain a list of "approved" background check vendors?**
The Corporation does not approve or disapprove commercial entities that provide background checks. If you wish to use a commercial provider, you must ensure that they will provide you with fully compliant, two-part background checks (NSOPR plus designated statewide repository check(s)), as well as provide services that meet all of the procedural steps identified in the Corporation's regulations. If any component of the search or procedures is to be varied from, then an ASP approved by the Corporation is required.

11.3. **Why doesn't the Corporation maintain a list of approved background check vendors?**
There are multiple reasons why we are unable to maintain a list of background check vendors. Most importantly, commercial providers typically offer a menu of services, with the client having flexibility to purchase one or more services that may or may not meet the Corporation's standards. Therefore, there is no way for the Corporation to predict or ensure which services will be procured unless a grantee commits to those services and defines them in a ASP request to the Corporation. A vendor's services may change at any time, and many vendors do not have access to the designated statewide systems. Given the highly variable nature of the services provided by commercial providers, as well as legal concerns around the government endorsing one commercial entity over another, it is unlikely that the Corporation will be able to develop a list of approved commercial background check providers.

12. Alternate Search Protocols

12.1. **Are there reasons that I might need an alternate search protocol approval other than wanting to search criminal history repositories other than the designated ones?**
Yes, there can be many reasons that you may need an ASP approval from the Corporation in addition to wanting to use other sources. If a State law prohibits you from complying with any of the background check regulations, you need an ASP approval. If you wish to vary from any of the specific procedures required by the regulations you must obtain an alternate search protocol approval from the Corporation

12.2. **How do I request an alternate search protocol approval from the Corporation?**
The Corporation maintains instructions for requesting an ASP on the Resource Center website under "National Service Criminal History Check Resources." ASP related questions, or an ASP request can be submitted by email to alternatebackgroundcheck@cns.gov or by regular mail to the Corporation's Office of Grants Management.

13. Other Considerations on National Service Criminal History Checks

13.1. **The cost of conducting background checks can be a financial burden for a program. Can the Corporation pay for these checks?**
The cost of conducting the criminal registry check is an allowable program operating cost (called a "volunteer support expense" in Senior Corps programs) and should be included in the budget.

13.2. **The preamble states that programs may not charge an applicant for the cost of conducting the State criminal registry check. Does this mean that we can't charge an applicant and later reimburse him or her for this cost?**
Except under very limited circumstances (for example, where programs have traditionally charged all volunteers for this cost) programs may not charge applicants for the cost of conducting criminal registry checks. However, programs are permitted to charge the applicant initially if the program eventually reimburses the applicant for the cost of conducting the check, thus resulting in no actual cost to the applicant.

13.3. **Why is the Corporation requiring something that may make it harder to recruit volunteers?**
Screening and supervision of volunteers, including senior volunteers, is an integral part of operating a service program. The baseline screening required in the rule does not involve any burden on the participants which is not commonly expected of applicants for most employment or volunteer positions today.

Table 1: Designated Statewide Criminal History Repositories

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Alabama	The Alabama Background Check (ABC)[1]	http://background.alabama.gov/	None at this time
Alaska	Department of Public Safety	www.dps.state.ak.us/	None at this time
America Samoa	Department of Public Safety Office of the Commissioner	http://americansamoa.gov/departments/depts/safety.htm	None at this time
Arizona	Arizona Department of Public Safety	http://www.azdps.gov/	None at this time

[1] Updated May 2010 from original designated source based on a change in the Alabama state agency providing official background check data.

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Arkansas	Arkansas Crime Information Center	http://www.asp.state.ar.us/	None at this time
California	California Department of Justice Criminal Justice Information Services Division	http://caag.state.ca.us/fingerprints	None at this time
Colorado	Department of Public Safety Crime Information Center Colorado Bureau of Investigation	www.cbirecordscheck.com	None at this time
Connecticut	Department of Public Safety Bureau of Identification	www.state.ct.us/dps/SPBI	None at this time
Delaware	Department of Public Safety	www.state.de.us/dsp/sbi	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
District of Columbia	Metropolitan Police Department Records Department	www.mpdc.org	None at this time
Florida	Florida Department of Law Enforcement Criminal Justice Information Systems	www.fdle.state.fl.us/backgroundchecks	None at this time
Georgia	Georgia Bureau of Investigation Georgia Crime Information Center	www.gbi.georgia.gov	None at this time
Guam	Guam Judicial Center, Superior Court of Guam	http://www.guamsupremecourt.com/superior.html	None at this time
Hawaii	Department of the Attorney General, Criminal Justice Data Center	http://hawaii.gov/ag/	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Idaho	Idaho State Police Bureau of Criminal Identification	http://www.isp.state.id.us/identification/crime_history/	None at this time
Illinois	Illinois State Police, Division of Administration	http://www.isp.state.il.us/crimhistory/crimhistoryhome.cfm	None at this time
Indiana	Indiana State Police, Records Division	http://www.in.gov/ai/appfiles/isp-lch	None at this time
Iowa	Iowa Department of Public Safety Division of Criminal Investigation	http://www.dps.state.ia.us/DCI/index.shtml	None at this time
Kansas	Kansas Bureau of Investigation	http://www.kansas.gov/kbi/criminalhistory/	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Kentucky	Kentucky State Police, Records Section	http://kentuckystatepolice.org/	Kentucky Administrative Office of the Courts (AOC) http://courts.ky.gov/aoc/courtservices/recordsandstatistics/records.htm
Louisiana	Office of State Police, Bureau of Criminal Investigation	http://www.lsp.org/	None at this time
Maine	Maine State Police, State Bureau of Identification	http://www10.informe.org/PCR/	None at this time
Maryland	Maryland Department of Public Safety & Correctional Services--Criminal Justice Information System-Central Repository	http://www.dpscs.maryland.gov/publicservs/bgchecks.shtml	None at this time
Massachusetts	Massachusetts Criminal History Systems Board	www.state.ma.us/chsb/	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Michigan	Michigan Department of State Police, Criminal Justice Information Center	http://www.michigan.gov/	None at this time
Minnesota	Department of Public Safety, Bureau of Criminal Apprehension	www.dps.state.mn.us	None at this time
Mississippi	Department of Public Safety, Criminal Information Center	http://www.dps.state.ms.us/dps/dps.nsf/main?OpenForm	None at this time
Missouri	Missouri State Highway Patrol, Criminal Records and Identification Division	http://www.mshp.dps.mo.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html	None at this time
Montana	Montana Department of Justice, Justice Information Services Division	http://www.doj.mt.gov/enforcement/criminaljustice/backgroundchecks.asp	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Nebraska	Nebraska State Patrol, Investigation Services Division	http://www.nsp.state.ne.us/FindFile.asp?ID=209	None at this time
Nevada	Nevada Highway Patrol, Records & Identification Services	http://nhp.nv.gov/	None at this time
New Hampshire	New Hampshire State Police, Support Services Bureau	http://www.nh.gov/safety/divisions/nhsp/isb/index.html	None at this time
New Jersey	New Jersey State Police, Records & Identification Section	http://www.njsp.org/	None at this time
New Mexico	Department of Public Safety, Technical and Emergency Support Division	http://www.dps.nm.org/lawEnforcement/records.php	The New Mexico Department of Health Caregivers Criminal History Screening Program (CCHSP) http://dhi.health.state.nm.us/CCHSP/index.php Note: This service may not be available to all grantees.

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
New York	NY State Division of Criminal Justice Services, Office of Operations and Systems	http://criminaljustice.state.ny.us/	New York State Office of Court Administration (OCA) http://www.nycourts.gov/apps/chrs/
North Carolina	North Carolina Bureau of Investigation Identification Section	http://www.ncdoj.gov/About-DOJ/State-Bureau-of-Investigation.aspx	North Carolina Administrative Office of the Courts (NCAOC) is acceptable; however, because vendor searches of the NCAOC may differ, an ASP is required. http://www.nccourts.org/Citizens/GoToCourt/Default.asp?topic=1
North Dakota	Bureau of Criminal Investigation, Information Services Division	http://www.ag.state.nd.us/bci/bci.htm	None at this time
Ohio	Bureau of Criminal Investigation, Information Services Division	http://www.ohioattorneygeneral.gov/Enforcement/BCI	None at this time
Oklahoma	Bureau of Investigation, Information Services Division	http://www.ok.gov/osbi/Criminal_History/	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Oregon	Forensic Services, Identification Services Section	http://www.oregon.gov/OSP/CID/index.shtml	None at this time
Pennsylvania	Pennsylvania State Police, Bureau of Records & Information Services	http://www.psp.state.pa.us/portal/server.pt/community/psp/4451	None at this time
Puerto Rico	Puerto Rico Department of Justice, Criminal Justice Information Systems	http://www.justicia.gobierno.pr/	None at this time
Rhode Island	Department of the Attorney General, Bureau of Criminal Identification	http://www.riag.ri.gov/civilcriminal/criminalid.php	None at this time
South Carolina	South Carolina Law Enforcement Division	http://www.sled.sc.gov/	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
South Dakota	Office of the Attorney General, Division of Criminal	http://www.state.sd.us/attorney	None at this time
Tennessee	Tennessee Bureau of Investigation	http://www.tbi.state.tn.us/Crime_invest/crime_invest.shtml	None at this time
Texas	Texas Department of Public Safety, Crime Records Service	http://www.txdps.state.tx.us/	None at this time
Utah	Utah Department of Public Safety	http://publicsafety.utah.gov/bci/index.html	None at this time
Vermont	Department of Public Safety, Crime Information Center	http://www.dps.state.vt.us/cjs/vcic.htm	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Virgin Islands	VI Police Department, Records Bureau Records Management Officer	http://www.vipd.gov.vi	None at this time
Virginia	Virginia State Police, Bureau of Administration & Support Service	http://www.vsp.state.va.us/CJIS_Criminal_Record_Check.shtm	None at this time
Washington	Washington State Patrol, Criminal Records Division	http://www.wsp.wa.gov/	None at this time
West Virginia	West Virginia State Police	http://www.wvstatepolice.com/	None at this time
Wisconsin	Wisconsin Department of Justice, Crime Information Bureau	http://www.doj.state.wi.us/DLES/CIB/crimback.asp	None at this time

State	Corporation Designated Repository Agency	Designated Agency URL	Alternate Statewide Source Approved by Corporation
Wyoming	Division of Criminal Investigation	http://attorneygeneral.state.wy.us/dci/	None at this time