

**LAKE COUNTY BOARD OF DD/DEEPWOOD**

**BOARD POLICY**

Reviewed and Adopted by the Board:

Date: May 24, 2021

Signature on File

Elfriede Roman, Superintendent

**I. SUBJECT: BACKGROUND CHECKS**

**II. PURPOSE:**

To determine the fitness and appropriateness of an Applicant for employment or for provision of direct services to individuals with developmental disabilities.

**III. REFERENCE:**

Ohio Revised Code 5126.30, 5126.31, 5126.33

Ohio Revised Code Chapter 119

Ohio Administrative Code: 5123-2-02; 5123-17-03; 5123:2-3-04; 5123-9-18; 5123:2-2-01

Lake County Board of DD/Deepwood Policy D-2 (Non-Discrimination)

Lake County Board of DD/Deepwood Policy A-9 (Volunteer Services)

Lake County Board of DD/Deepwood Policy G-5 (Family Support Services Program)

Ohio Department of Education: Pupil Transportation Operation and Safety Rules

**IV. POLICY:**

A. An Applicant being considered for employment with the Lake County Board of DD shall be subject to a Bureau of Criminal Identification and Investigation (“BCII”) criminal records check. All current Employees shall be subject to Background Checks in accordance with the Ohio Department of Developmental Disabilities and/or the Ohio Department of Education. The Applicant or Employee shall be fingerprinted, have signed, and notarized an Authorization for Release of Information which is relevant to the actual and potential duties and responsibilities of his/her prospective position. The fingerprints will be submitted to the Ohio Bureau of Criminal Investigation and Identification (BCII) for a criminal records history. If the Applicant or Employee does not state that he/she has maintained continuous residence in the State of Ohio for the five (5) years immediately preceding the date upon which the criminal records check is requested, the Applicant or Employee shall also be required to provide fingerprints for submission to the Federal Bureau of Investigation (FBI). Additionally, both BCII and FBI background checks are required for certain positions irrespective of residency status.

A background check shall also include a review of the following: (1) Ohio Department of Developmental Disabilities (DODD) Abuser Registry; (2) the Nurse’s Aide Registry, (3) U.S. OIG List of Excluded Individuals & Entities; (4) the AG Sex Offender & Child Victim Database; (5) the U.S. General Services Administration Excluded Parties List (SAM); (6) the ODRC Inmates Database; (7) Ohio Department of Medicaid Provider

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Exclusion & Suspension List; (8) an inquiry concerning test results or refusals of drug/alcohol tests done by employer(s) in the past two years for individuals holding a CDL per 49 CFR Part 40.

- B. The Board will complete an initial background check of all final applicants for Agency employment, an employee who is recalled or re-employed following a layoff that did not include immediate displacement of a less senior employee, an employee who is re-hired and prospective volunteers to the Agency's Volunteer Services Department subject to Volunteer Services Policy A-9.

At the time of the initial interview for employment and/or volunteer services, the Applicant shall be informed that a background check will be required of all final applicants. The background check shall include an inquiry concerning test results or refusals of drug/alcohol tests done by employer(s) in the past two years for individuals holding a CDL per 49 CFR Part 40.

The Board shall not hire, nor accept a volunteer whose name is on the above listed registries or databases. Likewise, for CDL holders, the Board typically shall not hire, contract with, or employ any person who has failed or refused a drug or alcohol test in the last two (2) years.

Prior to employing an Applicant, the Superintendent shall require the Applicant to submit a sworn statement with the applicant's signature attesting that the Applicant has not been charged with, convicted of, pled guilty to, or been found eligible for intervention in lieu of conviction for any of the offenses listed or described in Ohio Administrative Code 5123-2-02. The Superintendent shall also require the applicant to sign an agreement under which the Applicant agrees to notify the Superintendent and/or Designee within fourteen (14) days of the date that the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for any criminal offense after the Applicant is employed.

The Applicant shall be fingerprinted and sign an Authorization for Release of Information which is relevant to the actual and potential duties and responsibilities of his/her prospective position. The fingerprints will be submitted to the Ohio Bureau of Criminal Investigation and Identification (BCII) for a criminal records history. If the Applicant does not state that he/she has maintained continuous residence in the State of Ohio for the five (5) years immediately preceding his/her application, or is applying for a position for which it is required, the Applicant shall also provide fingerprints for submission to the Federal Bureau of Investigation (FBI).

The background check shall also include a contact with all Department of Transportation (DOT) regulated employers by whom the Applicant was employed during the previous two years per 49 CFR Part 40. The Applicant shall be required to sign a statement, which grants permission to the Board to ask the Applicant's former DOT-regulated employer(s) whether the Applicant has failed any drug/alcohol test or refused any pre-employment drug/alcohol test in the past two years.

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The fee associated with the background check will be paid according to current administrative policy.

For those Applicants who are members of professional association(s) or who possess a professional license, registration, or certification which is required or related to the actual or potential job duties and responsibilities of the position for which they apply the Superintendent may request a report from the State or Federal agency regulating the occupation or profession listing any complaints, charges and/or disciplinary actions of record against the Applicant and any information pertaining to the Applicant's criminal record that the agency obtains in the course of conducting an investigation or renewing the license of certification of the Applicant.

An Applicant's refusal to submit to a background check shall result in no further consideration of his/her application and disqualification of the Applicant from rendering service for or on behalf of the Board.

Background information will be accessible to the Superintendent, Human Resources Director and appropriate Program Director and Department Head on a need-to-know basis only. All information obtained in the background check will be considered strictly confidential, subject to required disclosure under law. A copy of criminal history, registry check responses, and driving abstracts records shall be made available to the Applicant upon request.

The Human Resources Director in conjunction with the Superintendent, Program Director or Department Head, where appropriate, shall examine the findings of the background check and determine the fitness and appropriateness of the Applicant. The further processing of the application shall not be continued and the Applicant shall be disqualified from rendering service for or on behalf of the Board if the background check discloses information that:

1. The Applicant has been convicted of, pled guilty to, or been found eligible for intervention in lieu of conviction for any of the disqualifying offenses listed or described in OAC 5123-2-02 unless an exception exists.
2. Conviction, guilty plea, or intervention in lieu of conviction for violation of a law of a municipality, another state or of a federal law that is equivalent to the disqualifying offense, unless an exception applies.
3. The Applicant has been dismissed for good cause from any branch of public (including military) service if the reason for dismissal bears a direct and substantial relationship to the position being filled.
4. The Applicant has falsified any academic, licensure, or certification credentials or any other material information disclosed by the Applicant during the application process.
5. The Applicant is listed on one of the above registries or databases.
6. The Applicant either refused a pre-employment drug/alcohol test or failed

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a drug/alcohol test in the last two (2) years for individuals holding a CDL per 49 CFR Part 40.

7. No current license for a position that requires a license, and/or the driver abstract obtained on the Applicant shows six (6) or more points.

If it is determined that an Applicant has falsified any portion of the application or interview process, an Applicant may be denied employment; if determined subsequent to hire, the individual may be subject to termination.

An Applicant may be disqualified if he/she has been convicted of, pled guilty to, or been found eligible for intervention in lieu of conviction for an offense that is deemed by the Superintendent to be a job related offense.

The Board Superintendent, in his/her sole discretion, may authorize the provisional employment of an otherwise qualified Applicant for initial employment not to exceed 60 days, prior to and pending receipt of the BCII/FBI criminal history background check as long as the Applicant signs a statement that he/she has not been convicted of a disqualifying offense.

The further processing of the individual's application shall not be continued and the Applicant shall be disqualified from rendering service for or on behalf of the Board if the criminal history background check discloses that he/she has been convicted of, pled guilty to, or been found eligible for intervention in lieu of conviction for any of the offenses listed or described in OAC 5123-2-02 or their equivalents unless an exception applies. Likewise, further processing of an individual's application shall not be continued and the Applicant shall be disqualified from employment if he/she failed to disclose such criminal history information on the Criminal Conviction History Statement.

C. Current Employees

The Board shall not continue to employ a person who is excluded by law by having been placed on one of the above listed registries or databases or upon conviction of, guilty plea to, or eligibility for intervention in lieu of conviction for a disqualifying offense listed in OAC 5123-2-02, unless an exception in such code section applies or determination of the character and fitness has been made as provided in the code.

All employees who do not have a Commercial Driver License, but who regularly transport individuals served in Board Programs, must annually submit a request to the State for their driver's abstract to be provided to the Agency. This request may be made at the time of the employee evaluation, or it can be made for all employees in a department at once, at the discretion of the department. The Human Resources Director will maintain a list of driver abstracts for those employees who transport individuals served in Board programs. Human Resources will forward all requests for a driver abstract, to the State in order to have results not more than one (1) year old. The Director of Operations shall review each abstract to determine eligibility to drive. The Human Resources Department will verify such eligibility.

Said employees may be restricted from driving agency vehicles in the course of their positions for the following reasons:

1. A conviction of driving while under the influence of alcohol and/or a controlled substance during the past six (6) years.
2. Two (2) or more vehicle accidents for which the employee was cited within a one (1) year period.
3. Six (6) or more points on his or her driving record.
4. Failure to maintain or revocation of a valid Ohio Driver's License.

If an employee is ever charged with, convicted of, plead guilty to, or found eligible for intervention in lieu of conviction for any of the offenses listed or described in Ohio Administrative Code 5123-2-02, the employee must notify the Superintendent and/or Designee within 14 days of the charges being filed and/or the conviction, guilty plea being entered, or intervention program beginning. Failure to report any such charges may result in dismissal.

The Human Resources Department will conduct Background Checks in accordance with the Ohio Department of Developmental Disabilities and/or the Ohio Department of Education. which may include a review of the following: (1) Ohio Department of Developmental Disabilities (DODD) Abuser Registry; (2) the Nurse's Aide Registry, (3) U.S. OIG List of Excluded Individuals & Entities; (4) the AG Sex Offender & Child Victim Database; (5) the U.S. General Services Administration Excluded Parties List (SAM); (6) the ODRC Inmates Database; (7) Ohio Department of Medicaid Provider Exclusion & Suspension List. The employee will pay the fee of the background checks. Documentation from Background Checks will be maintained in the Human Resources Department. In an effort to maintain the most up-to-date background information on current employees, the Board utilizes the Ohio Attorney General's Retained Applicant Fingerprint Background Check system (RAPBACK) and the Automated Registry Check System (ARCS) through the Ohio Medicaid MITS portal. These systems provide ongoing monitoring of BCII criminal records and the registries listed above. For positions requiring FBI record checks, Human Resources will conduct FBI background checks for incumbent employees every five (5) years.

The Board will complete Background Checks for ongoing volunteers to the Agency's Volunteer Services Department subject to the Volunteer Services Policy A-9 every five (5) years.

**D. Independent Contractors**

Any entity under contract with the Board to provide direct/specialized services to consumers must conduct background investigations in the same manner as the Board of all persons under final consideration for employment or under final consideration for a position that involves or may involve the provision of direct/specialized services to consumers. "Specialized services" includes any program or service designed and operated to serve primarily individuals with a developmental disability. Failure of the contracting entity to comply with this policy, including but not limited to the provisions

**LCBDD/Deepwood Policy B-12**

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for the completion of a pre-employment criminal history background check and review of the applicable registries and databases may result in immediate contract termination.

Nothing herein shall prohibit a contracting entity from establishing additional selection criteria and background checks for its individual Applicants and service providers. Upon request, the Board shall assist a contracting entity in this process.

Contracting entities, as described above, may utilize the provisional employment provisions above, subject to and conditioned upon strict compliance with the procedures hereof and with any applicable SSA Department Administrative Procedures.

**V. DISTRIBUTION:**

Board Members

All Management Staff

All Staff (via Department Managers)

LEADD President

**VI. REVIEWED:**

5/21, 5/19, 5/18, 5/17, 5/16, 5/15, 8/14, 4/14, 1/14, 1/13, 5/12, 6/10, 6/08, 2/08, 8/05, 8/03, 11/02, 4/02, 8/01, 2/00, 5/00, 4/97, 11/95, 2/95, 11/94, 10/94