

YOUTH PROTECTION POLICY FOR SERVICE PROVIDERS

I. PURPOSE

In an effort to help ensure the safety of minors served by its programs, the Housing Authority of the City of Los Angeles (the “Authority”) adopts this Youth Protection Policy for Service Providers (this “Policy”), which requires, to the greatest extent permitted by law, criminal background checks for all employees, volunteers and agents of the Authority’s service providers and their subcontractors, who, in the scope of providing services to the Authority, may have more than limited contact with or supervision of minors.

II. DEFINITIONS

Background Checks means criminal background checks of criminal databases identified by the Authority as being reliable sources of information for purposes of this Policy.

Covered Persons, which also includes the singular, means adult employees, volunteers, and agents who, in the course of providing services to the Authority and while under the direction of a Service Provider or its subcontractors, may have more than limited contact with or supervision of Minors.

Mandatory Reporter means any person identified at Penal Code section 11165.7 as having the reporting responsibilities identified at Penal Code section 11166 concerning victims of child abuse or neglect or the discretionary reporting responsibilities concerning child victims of serious emotional damage identified at Penal Code section 11166.05.

Minor means a child under the age of 18 years who has not been emancipated.

Serious Felonies, which also includes the singular, are those crimes defined at Penal Code section 1192.7(c), as may be amended from time to time. Unless the Service Provider finds extenuating circumstances as described under paragraph E of Article V of this Policy, a Covered Person has not cleared the requisite Background Check if said person has been convicted of a Serious Felony offense.

Service Providers, which also includes the singular, means businesses that contract with the Authority and, in the scope of providing services to the Authority, have employees, volunteers, and agents who have more than limited contact with or supervision of Minors.

Violent Felonies, which also includes the singular, are those crimes defined at Penal Code section 667.5(c), as may be amended from time to time. Unless the Service Provider finds extenuating circumstances as described under paragraph E of Article V of this Policy, a Covered Person has not cleared the requisite Background Check if said person has been convicted of a Violent Felony offense.

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III. APPLICABILITY

A. This Policy applies to all Service Providers with Covered Persons.

B. The determination as to whether employees, volunteers, and agents are Covered Persons will be made by Service Providers and subcontractors. The Authority recommends consideration of the following factors when identifying Covered Persons:

1. The amount of time such persons will spend in the presence of Minors;

2. The amount of time such persons will spend in the presence of Minors without other adults present;

3. The extent of supervision of such persons by other adults while in the presence of Minors;

4. The frequency and duration with which such persons are in contact with Minors;

5. The nature of interaction between such persons and Minors; and

6. The location where the services are provided.

C. The Authority recognizes that Background Checks cannot be performed on Minors. Minors who are employees, volunteers, agents or subcontractors of a Service Provider and who may have more than limited contact with or supervision of other Minors shall, at all times while providing services to, or on behalf of, the Authority, be supervised by a Covered Person who has passed a Background Check.

D. The Authority reserves the right, but not the obligation, to require a Service Provider to perform Background Checks on certain or all employees, volunteers, agents and subcontractors who are providing the Authority with services, including those not otherwise identified by the Service Provider or subcontractor as Covered Persons.

IV. SERVICE PROVIDER RESPONSIBILITIES

A. As part of their contractual obligations, Service Providers will be responsible for the following:

1. To complete Background Checks on all Covered Persons, including subcontractors who qualify as Covered Persons.

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2. To prohibit all Covered Persons from coming into contact with or supervising Minors until cleared by the Background Checks required under this Policy.

3. To certify to the completion of requisite Background Checks by providing to the Authority, in writing, a list of all Covered Persons who have cleared Background Checks (“Cleared Background Check List”). Service Providers shall ensure their Cleared Background Check List is current, accurate, and available to the Authority upon demand.

4. If eligible, to apply for subsequent arrest notification with the Department of Justice in order to receive subsequent arrest notice for Covered Persons.

5. To immediately notify the Authority, in writing, in the event any Covered Person is arrested for a crime that, if convicted, would cause the person not to pass the Background Check required by this Policy. Service Providers shall ensure arrested persons do not come into contact with or supervise Minors until cleared of all charges. Service Providers shall provide the Authority with written notice of the disposition of the charges (i.e., whether the person is convicted or cleared of charges). Notwithstanding clearance of all charges, the Authority shall have the right, but not the obligation, to prohibit arrested persons from providing services to the Authority or providing services on behalf of the Authority.

6. To immediately notify the Authority, in writing, in the event any Covered Person is investigated for material violations of this Policy. Service Providers shall ensure such person does not come into contact with or supervise Minors until the investigation is complete, and the Service Provider has provided the Authority with written findings clearing the person subject to the investigation. Notwithstanding Service Provider’s clearance, the Authority shall have the right, but not the obligation, to prohibit an investigated Covered Person from providing services to the Authority or providing services on behalf of the Authority.

7. To recognize those Covered Persons who also qualify as Mandatory Reporters.

8. To provide Covered Person who qualify as Mandatory Reporters with training in the identification and reporting of child abuse and neglect as reasonably required to understand and fulfill their reporting requirements.

9. To provide a copy of this Policy to any subcontractor who will be employed to provide services to the Authority and who has employees, volunteers and agents who qualify as Covered Persons or Mandatory Reporters.

B. As part of their contractual obligations, Service Providers shall require Covered Persons to sign an affidavit, under penalty of perjury, attesting to the following:

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1. The person has not made a false statement or material omission in connection with the Background Check;
2. The person is not a registered sex offender and is not otherwise required to file or register as a sex offender; and
3. The person has not been convicted of a criminal offense listed in Article V, or if he/she has been convicted of such crime, he/she has provided to the Service Provider a written explanation concerning the facts and circumstances surrounding said conviction.

V. CRIMINAL BACKGROUND CLEARANCE

A. A Covered Person has not cleared the Background Check if said person has been convicted of violations or attempted violations of the crimes listed below. (Note: all citations are to the Penal Code.)

1. Unlawful sexual intercourse with a minor (PC §261.5)
2. Child endangerment (PC §273a)
3. Child abuse (PC §273d)
4. Domestic violence (PC §273.5)
5. Robbery, when it is charged and proved that the defendant personally used a deadly or dangerous weapon in the commission of the crime (PC §211)
6. Assault on government official (PC §217.1)
7. False imprisonment (PC §236)
8. Assault and battery laws (PC §§240-248)

B. A Covered Person has not cleared the Background Check if said person has been convicted of a violation or attempted violation of a Serious Felony offense. A "Serious Felony" offense includes any of the crimes specified at Penal Code section 1192.7(c), as may be amended from time to time.

C. A person has not cleared the Background Check if said person has been convicted of a violation or attempted violation of a Violent Felony offense, including a Violent Felony offense that counts as a prior in California's Three Strikes law at Penal Code section 667.5(c). A "Violent Felony" offense includes any of the crimes specified at Penal Code section 667.5(c), as may be amended from time to time.

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D. A person has not cleared the Background Check if said person is required to register as a sex offender.

E. Notwithstanding the foregoing provisions in this section, with the exception of a person who is required to register as a sex offender, a Covered Person who would otherwise not clear a Background Check due to criminal history, may be permitted by a Service Provider to fill a position in which said person may have more than limited contact with or supervision of Minors, if, the Service Provider finds support for the exception based on extenuating circumstances. In weighing whether a Covered Person's conviction should give rise to an exception for disqualification based on criminal history, the Authority recommends consideration of the following factors:

1. The relationship between the offense leading to the conviction and the type and nature of services the person will provide under the services contract;
2. The person's employment or volunteer history before and after the offense leading to the conviction;
3. The person's efforts and success at rehabilitation since the offense leading to the conviction;
4. The likelihood the offense leading to the conviction would prevent the person from performing his or her responsibilities under the services contract;
5. The circumstances and/or factors indicating the offense leading to the conviction is likely to be repeated;
6. The nature, severity, number, and consequences of the offense leading to the conviction;
7. The circumstances surrounding each offense leading to the conviction; and
8. The amount of time elapsed since the offense leading to the conviction.

G. A Service Provider's initial determination of eligibility, ineligibility or disqualification of Covered Persons under this section shall not relieve the Service Provider of its continuing obligations and responsibilities under the services contract, including without limitation, conducting Background Checks on new employees, volunteers, agents and/or subcontractors who qualify as Covered Persons and periodic redeterminations of eligibility of Covered Persons as may be warranted.

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VI. AUTHORITY'S DISCRETION

A. The Authority has the sole and absolute discretion to require all Service Providers to require Covered Persons to submit to additional background checks, drug testing, and/or tuberculosis clearance.

B. The Authority has the sole and absolute discretion to waive the Background Checks required hereunder if the Authority determines that the Service Provider is providing services in an emergency or exceptional situation, such as when health or safety is endangered or when repairs are needed to make facilities immediately safe and habitable.

C. The Authority has the sole and absolute discretion to require all Service Providers to submit proof of insurance coverage protecting against incidences involving minors, under either a General Liability policy or a separate Abuse and Molestation policy, in an amount satisfactory to the Authority's Risk Manager.

D. The Authority has the sole and absolute discretion to provide background check assistance to a Service Provider who can demonstrate, under criteria described in procedures adopted to implement this Policy, the requirements of this Policy or the procedures will pose an extreme financial hardship.

VII. PROCEDURES

The President/CEO may provide for the development, administration and implementation of the procedures to be adopted in furtherance of this Policy ("Procedures").

VIII. AMENDMENTS TO THE POLICY

This Policy may only be amended by the Board of Commissioners. The Procedures adopted to implement this Policy may be amended at any time at the discretion of the President/CEO, without the approval of the Board of Commissioners.

Prior History:

Version 1: Approved by the BOC on 5/22/14 (Resolution No. 9135)

Version 2: Approved by the BOC on 10/30/14 (Resolution No. 9164)