



DEPARTMENT OF HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

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POLICY MEMORANDUM 02-15**DATE:** January 4, 2002**TO:** Adjustment Training Centers**FROM:** Wanda Seiler,
Division Director**SUBJECT:** Criminal Background Checks for Potential Employees

This memorandum provides interim guidelines regarding criminal background checks on new part-time and full-time employees. Agencies are currently using one or more of the following sources to obtain some type of background information: DCI, FBI and/or county clerks of courts. Some agencies also operate as educational cooperatives and are required to complete DCI/FBI background checks and Department of Social Services' Central Registry Checks as required by SDCL 13-10-12. (this can be viewed at <http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&FindType=Statute>)

The county clerk of courts system appears to be a cost effective and time efficient vehicle for completing employee background checks. These checks provide information on South Dakota convictions occurring within the past 10 years. Information is received in a timely manner, but varies from county to county, and should not delay hiring timeframes. The fee is \$15.00-20.00.

Effective Jan. 7, 2002, the Division of Developmental Disabilities will require each agency to: 1) conduct a criminal background check for each new employee prior to hiring. The Division recommends agencies utilize the county clerk of courts system to meet these requirements. Agencies meeting the requirements of SDCL 13-10-12 are exempt from this requirement. 2) Apply the exclusions included in the Policy Memorandum 02-03 that are governed and required by federal regulations.

Beyond these two minimum requirements, agencies must use their discretion and review information made available through the criminal background checks when selecting candidates for employment.

The Division will be promulgating an Administrative Rule of South Dakota to address this issue. This rule will include minimum requirements for criminal background checks and federally

mandated exclusions. Once promulgated the Division will monitor implementation of this rule through a sample of employee files reviewed during the ARSD survey process.

Division staff are compiling information gathered in researching this issue and it will be distributed at a later date. Although Division staff can provide technical assistance in defining the minimum standards/requirements outlined in this memorandum, hiring decisions are at the discretion of agencies. Those decisions must give every consideration to insuring the health and safety of the consumers we serve.

Please feel free to contact your assigned Program Specialist for technical assistance regarding criminal background checks.

cc: DDD staff
Tom Scheinost