

# Wisconsin Human Resources Handbook

## Chapter 246

### Verifying Applicant Information and Securing Applicant Background Checks

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#### Sec. 246.010 Introduction

Prior to making an appointment to a position, it is necessary to verify the accuracy of any information relating to the appointee's status such as veteran status, race/ethnicity, registration for selective service, or any other special qualifications required of the position. The areas requiring verification are those in which the applicant self-claims eligibility. It is more cost effective to complete the verification process between certification and hiring rather than at the time of application. This prevents devoting resources toward verification when only a small percentage of the applicant pool will actually be hired. Upon verification, the appointing authority may proceed with the hire if the information claimed by the applicant is accurate. However, no further consideration may be given to a candidate who does not meet the necessary requirements.

Agencies have a responsibility to comply with the provisions of Wisconsin's Fair Employment Act throughout the hiring process, including the use of an applicant's criminal history. The Act places limitations on an employer's use of an applicant's or employee's pending charge or conviction record when making an employment decision. Agencies have a responsibility to the public to ensure that programs are carried out in a legal, effective, safe, and humane manner.

The purpose of this chapter is to provide guidance on verifying necessary applicant information. This chapter also describes the enterprise policy and agency procedures that should be used to conduct both criminal and non-criminal applicant background checks. This chapter will set forth criteria agencies must follow to aid in creating or modifying their procedures on conducting background checks as set forth in s. 111.335(1)(a), (b), and (c) and s. 230.17(3), Wis. Stats.; and s. ER-MRS 6.10, Wis. Adm. Code.

**Sec. 246.020 Statutory and Rule Authority**

1. Section 230.25(1g), Wis. Stats., reads, “After certifying names under sub. (1), the director shall additionally certify the names of the 3 highest ranked disabled veterans whose disability is at least 70 percent and the 3 highest ranked individuals each of whom is the spouse of a disabled veteran whose disability is at least 70 percent.”
2. Section 230.25(1m), Wis. Stats., reads, “ After certifying names under sub (1), the director shall additionally certify the names of all of the following:
  - (a) The 3 highest ranked veterans.
  - (b) The 3 highest ranked disabled veterans who are not certified under par. (a).
  - (c) The 3 highest ranked individuals each of whom is an unremarried spouse of a veteran who was killed in action.
  - (d) The 3 highest ranked individuals each of whom is an unremarried spouse of a veteran who died of a service connected disability.”
3. Section 230.25(1n)(a), Wis. Stats., reads, “After certifying names under subs. (1), (1g) and (1m), the director may engage in expanded certification by doing one or more of the following:
  1. Certifying up to 3 names of persons belonging to at least one of one or more specified racial or ethnic groups.
  2. Certifying up to 3 names of persons of a specified gender.
  3. Certifying up to 3 names of persons with a disability.”
4. Section 230.15(1), Wis. Stats., states, in part, “Subject to the restriction under s. 230.143, appointments to, and promotions in, the classified service shall be made only according to merit and fitness . . .”
5. Section ER-MRS 6.10, Wis. Adm. Code, reads in part, “In addition to provisions stated elsewhere in the law or rules, the director may refuse to review selection criteria or certify an applicant, or may remove an applicant from a certification:
  - (1) Who is found to lack any of the preliminary requirements established for the position; . . .
  - (3) Who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity. In considering such conviction records, the director shall take into account such factors as age at the time of the offense, rehabilitation, and seriousness and nature of the violation in relation to the duties and responsibilities of the position; . . .
  - (5) Who has made a false statement of any material fact in any part of the selection process; . . .
  - (7) Who practices, or attempts to practice, any deception or fraud in his or her application, certification, or in securing eligibility or appointment; . . .”
6. “Employment discrimination because of arrest record includes, but is not limited to, requesting an applicant, employee, member, licensee or any other individual, on an application form or otherwise, to supply information regarding any arrest record of the individual except a record of a pending charge, except that it is not employment discrimination to request such information when employment depends on the bondability of the individual . . .” s. 111.335(1)(a), Wis. Stats.
7. “Notwithstanding s. 111.322, it is not employment discrimination because of arrest record to refuse to employ or license, or to suspend from employment or licensing, any individual who is subject to a pending criminal charge if the circumstances of the charge substantially relate to the circumstances of the particular job or licensed activity.” s. 111.335(1)(b), Wis. Stats.
8. “Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing, any individual who:
  1. Has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; or

2. Is not bondable under a standard fidelity bond or an equivalent bond where such bondability is required by state or federal law, administrative regulation or established business practice of the employer.” s. 111.335(1)(c), Wis. Stats.
9. “When any position to be filled involves fiduciary responsibility, the appointing authority shall conduct a criminal history background check before offering employment to an applicant for the position. If otherwise permitted by law, the appointing authority may require the appointee to furnish bond or other security, and shall notify the director of the amount and other details thereof. Any surety company authorized to do business in this state shall be a sufficient security on any such bond.” s. 230.17(3), Wis. Stats.
10. “Notwithstanding ss. 111.321, 111.322, and 111.335, the department of transportation, with the assistance of the department of justice, shall conduct a background investigation of any person who has been selected to fill a position within the division of the department of transportation responsible for issuing operator’s licenses and identification cards. [T]he department shall require, as a precondition to allowing access to any information system in which is stored information maintained by the division of the department responsible for issuing operator’s licenses and identification cards, that any person to whom access is granted submit to a background investigation...[T]he department shall require the employer, including any state agency, of any person to whom the information will be made available to conduct the background investigation in a manner described by the department” s.110.09, Wis. Stats.
11. Section 230.143, Wis. Stats., reads, “A person who is required to register with the selective service system under 50 USC, Appendix, sections 451 to 473, but has not registered, may not receive an original appointment to a position in the classified service during the period that the person is required to register.”

### Sec. 246.030 Definitions

The following are definitions of terms used in this Chapter.

1. **Appointing authority:** “. . . [T]he chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes.” s. 230.03(4), Wis. Stats.
2. **Appointment:** “. . . [T]he action of an appointing authority to place a person in a position within the agency in accordance with the law and chs. ER 1 to 47 and ER-MRS 1 to 34 [Wis. Adm. Code], effective when the employee reports for work or is in paid leave status on the agreed starting date and time. ‘Appointment’ does not include an acting assignment under ch. ER-MRS 32.” s. ER-MRS 1.02(2), Wis. Adm. Code.
3. **Arrest Record:** “[I]ncludes, but is not limited to, information indicating that an individual has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.” s. 111.32(1), Wis. Stats.
4. **Background Check:** An investigation into the background of an applicant.
  - a. **Criminal Background Check:** Includes pending charges or conviction record.
  - b. **Non-Criminal Background Check:** Includes but is not limited to consumer credit reports, Social Security Number verification, Selective Service verification, licensing and professional credential verification, etc.
5. **Caregiver:** “A person who is, or expected to be, an employee or contractor of an entity, who is or is expected to be under the control of an entity, as defined by the department by rule, and who has, or is expected to have, regular, direct contact with clients of the entity.” ss. 48.685 and 50.065, Wis. Stats.

6. **Certification:** A list of candidates from the register who will be moved on to any post-certification selection process (e.g. phone interview, face to face interview, another post-cert assessment, etc.).
7. **Conviction Record:** “[I]ncludes, but is not limited to, information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or paroled pursuant to any law enforcement or military authority.” s. 111.32(3), Wis. Stats.
8. **Criminal Charge:** A criminal complaint, information, or indictment filed in a state, federal, tribal or international court of law.
9. **Disabled Veteran:** A veteran who has a service-connected disability.
10. **Fair Credit Reporting Act (FCRA):** A federal law (codified at 15 U.S.C. § 1681 et seq.) that regulates the collection, dissemination, and use of consumer credit information.
11. **Fiduciary Responsibility:** Positions where, under the Fiduciary Responsibility Law (s. 230.17(3), Wis. Stats.), the duties involve the following:
  - a. Handle, receipt for, or have custody of money, checks or securities, or account for supplies or other property; authorize (or make appropriations for) expenditures; approve, certify, sign or countersign checks, drafts, warrants, vouchers, orders or other documents providing for the paying over or delivery of money, securities, supplies or other property, or serve process; or
  - b. Maintain or audit accounts of money, checks, securities, time records, supplies or other property, or take physical inventories of money, checks, securities, supplies or other property.

**Note:** This definition is also used in the State Procurement Operational Questionnaire for blanket employee bonds, also known as employee dishonesty bonds, issued by the Department of Administration.

12. **Law Enforcement Officer:** Any person employed by the federal or state government, or any political subdivision of the state, including counties, cities, villages and towns, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.
13. **New Hire:** Any prospective employee that is not currently a state employee, including former employees with reinstatement eligibility. Former employees with restoration rights are **not** considered a new hire upon restoration.
14. **Report of Action:** The response from a certified candidate regarding his/her interest in the position for which they were certified or the action taken by the appointing authority.
15. **Restoring Employee:** An employee who is exercising a right of restoration as provided for in ER-MRS 16.03 or ER-MRS 30.11.
16. **Selective Service Registration:** The process of providing the Selective Service System with personal information, such as name, address, date of birth, Social Security Account Number and other related information. Men are required to register with Selective Service as soon as they reach age 18.
17. **Selective Service System:** An independent agency within the Executive Branch of the Federal Government. The Director of the Selective Service is appointed by the President and confirmed by the Senate. Selective Service is not a part of the Department of Defense. The Federal law under which the agency operates is the Military Selective Service Act. Under this law, the mission of the Selective Service System is to provide the numbers of men needed by the Armed Forces, within the time required, should Congress and the President decide to return to a draft, in the event of a national emergency.

18. **Veteran:** “Except as provided in s. 230.16 (7m), "veteran" means any of the following:
- (a) A person who served on active duty under honorable conditions in the U.S. armed forces and who was entitled to receive any of the following:
    - 1. The armed forces expeditionary medal established by executive order 10877 on December 4, 1961.
    - 2. The Vietnam service medal established by executive order 11231 on July 8, 1965.
    - 3. The navy expeditionary medal.
    - 4. The marine corps expeditionary medal.
  - (b) A person who served on active duty under honorable conditions in the U.S. armed forces in a crisis zone, as defined in s. 45.01(11), Wis. Stats.
  - (c) A person who served on active duty under honorable conditions in the U.S. armed forces for at least one day during a war period, as defined in s. 45.01 (13), Wis. Stats., or under section 1 of executive order 10957 dated August 10, 1961.
  - (d) A person who served on active duty under honorable conditions in the U.S. armed forces for 2 continuous years or more or the full period of the person’s initial service obligation, whichever is less. A person discharged from the U.S. armed forces for reasons of hardship or a service-connected disability or a person released due to a reduction in the U.S. armed forces prior to the completion of the required period of service shall also be considered a “veteran” regardless of the actual time served.” s. 230.03(14), Wis. Stats.

#### **Sec. 246.040 Veteran Status**

It is necessary for agency human resources staff to verify a person’s eligibility for receiving veteran status before making an offer of employment. Agencies are required to perform this verification prior to making an offer of employment. Failure to do so could result in an illegal hire.

Currently, applicants self-report their veteran status in Wisc.Jobs or by completing the *Veteran Status* form (DOA-15529). (This form can be found <http://doa.wi.gov/Documents/DPM/DPM%20FORMS/DOA-15529%20Veteran%20Status.pdf>). It is the applicant’s responsibility to show proof of eligibility for veteran status under the provisions of s. 230.03(14) and 230.25(1m), Wis. Stats. Candidates should submit their *Certificate of Release or Discharge from Active Duty*, also called the DD Form 214. Other documentation used to verify eligibility may be letters from the U.S. Departments of Defense, Army, Navy, or Air Force stating a veteran’s eligibility for the expeditionary medal for the appropriate campaign or conflict.

Agencies should notify the veteran that their status must be verified. This notice should be given when scheduling interviews and is usually in writing. Only those veterans certified under s. 230.25(1g) and 230.25(1m), Wis. Stats., require verification. It is important to give an applicant claiming veterans status a reasonable amount of time to provide the necessary documentation proving their eligibility. However, agencies should avoid long delays in the selection process when verifying an applicant’s veteran status.

To verify eligibility of all veterans certified, review, at a minimum, the veteran’s *Certificate of Release or Discharge from Active Duty* (DD214). The DD214 should include the veteran’s service dates, which will indicate:

- a. Active service during a wartime period;
- b. At least two years of continuous service on active duty under honorable conditions;
- c. Serving the full period of initial service obligation;
- d. That the veteran was discharged or released after less than two years due to hardship; or
- e. That the person was discharged due to a service connected disability or a reduction in the armed forces.

In addition, the DD214 will identify whether the person was awarded, authorized, or entitled to the Armed Forces Expeditionary Medal, the Vietnam Service Medal, or has authorization to wear the National Defense Service Medal. Other documentation used to verify eligibility may be letters from the U.S. Departments of Defense, Army, Navy, or Air Force stating a veteran's eligibility for the expeditionary medal for the appropriate campaign or conflict.

If the applicant claims a service-connected disability, documentation must be provided that verifies the percentage of disability. Disabled veterans receive a letter from the Federal Veterans Administration providing this letter is the acceptable form of verification.

If an applicant cannot verify veteran status, the agency personnel must update the candidate's applicant record in Wisc.Jobs. In addition, provide the candidate with a removal letter stating that the information has been updated and their name has been removed from the certification. Enter a report of action of "Not Eligible" (NE) in Wisc.Jobs to remove the name from the list. Document the reason for the NE. Agencies may receive a replacement name, if available. Check the applicant's certification record for any other certifications where the individual was certified under VET. Contact the hiring authorities to let them know that the person is ineligible to be considered under that category.

**Note:** It is possible that the applicant could be eligible for certification under Basic or expanded certification, i.e., VET, DEC, MEC, or WEC. Entering a report of action of NE changes that applicant's status on the register to a status that prevents future certification regardless of the category (Basic, VET, DEC, MEC, or WEC). Extra care should be taken to ensure that an applicant is not inactivated from the register too soon. (See Chapter 202-Assessment Evaluation and Register Establishment of the *Wisconsin Human Resources Handbook* for more information regarding certification procedures.)

Upon verification of veteran status, indicate on the Wisc.Jobs applicant record that the status has been verified. To do this, check the "DD214 Form Verified" box under the "Vets Information" section on the Applicant Detail screen.

### Sec. 246.050 Disabled Expanded Certification

Agency staff should not verify eligibility for those applicants who are certified under the Disabled Expanded Certification (DEC) program. A qualified professional verifies the disability and eligibility for the program prior to BMRS entering the DEC information in Wisc.Jobs. Therefore, a person will not be certified on a certification list until verification has taken place. The verification is valid for all positions for which the person applies for five years after the date BMRS receives the completed *Disabled Expanded Certification Verification* form from a qualified professional. (See s. ER-MRS-12.06(3), Wis. Adm. Code and Chapter 212—Certification Procedures, of the *Wisconsin Human Resources Handbook*.)

### Sec. 246.060 Minority Expanded Certification

The *Application for State Employment* form (DOA-15505; formerly OSER-DMRS-38) contains five Race/Ethnicity categories. (See <http://www.doa.state.wi.us/Documents/DPM/BMRS/DOA-15505%20Application%20for%20State%20Employment%20with%20Instructions.pdf> for a copy of the form.) Applicants may check as many categories as they identify with. The categories are American Indians or Alaskan Natives, Asians or Pacific Islanders, African Americans or Blacks, Hispanics or Latinos, and Whites defined as follows by Office of Management and Budget (OMB) Directive No. 15 (published in Federal Register [62 FR 58782-58790](#)):

- (a) "American Indians or Alaskan Natives (Not Hispanic or Latino)" mean persons having origins in any of the original peoples of North or South America (including Central America), and who maintain tribal affiliation or community attachment.
- (b) "Asians or Pacific Islanders (Not Hispanic or Latino)" mean persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including, for

example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

(c) “African Americans or Black (Not Hispanic or Latino)” mean persons having origins in any of the black racial groups of Africa.

(d) “Hispanics or Latinos” mean persons of Mexican, Puerto Rican, Cuban, or Central American or other Spanish culture or origin, regardless of race.

(e) “White (Not Hispanic or Latino)” mean persons having origins in any of the original peoples of Europe, the Middle East or North Africa.

Section 230.25(1n), Wis. Stats., and s. ER-MRS-12.05, Wis. Adm. Code, indicate that up to three names of persons belonging to at least one or more specified racial or ethnic groups can be certified for positions in which the classification is underutilized for minorities. All positions are considered underutilized for recruitment purposes, however, not all positions are considered underutilized for certification purposes. If expanded certification is required for the position, Wisc.Jobs will certify from the register the three highest ranked applicants who claimed they were something other than White (not Hispanic) and were not otherwise certified. (See Chapter 212– Certification Procedures, of the *Wisconsin Human Resources Handbook* regarding Minority Expanded Certification.)

Verification of race/ethnicity is only conducted if there is a challenge to its validity. If a challenge is made, it is important for HR to contact their agency’s Affirmative Action Officer or DOA/DPM’s Bureau of Affirmative Action to discuss how to proceed.

If it is determined that an applicant is not a minority, agency personnel must update the applicant record in Wisc.Jobs to reflect the correct race/ethnic code. In addition, agency personnel must provide the candidate with a removal letter stating that the information has been updated and their name has been removed from the certification. Enter a report of action of “Not Eligible” (NE) in Wisc.Jobs to remove the name from the list. Document the reason for the NE. Agencies may receive a replacement name, if available.

**Note:** It is possible that the applicant could be eligible for certification under Basic or expanded certification, i.e., VET, DEC, MEC, or WEC. Entering a report of action of NE changes that applicant’s status on the register to a status that prevents future certification regardless of the category (Basic, VET, DEC, MEC, or WEC). Extra care should be taken to ensure that an applicant is not inactivated from the register too soon. (See Chapter 202– Assessment Evaluation and Register Establishment of the *Wisconsin Human Resources Handbook* for more information regarding certification procedures.)

Check the applicant’s certification record for any other certifications where the individual was certified under MEC. Contact the hiring authorities to let them know that the person is ineligible to be considered under that category.

### **Sec. 246.070 Special Qualifications**

Agencies may require applicants to have special qualifications or requirements for a position, e.g. licensures, other languages, skills, etc. In most cases, applicants will be asked during the competitive procedures to indicate whether they have the necessary qualifications. This information will be added to the applicant record. The certification request will include the necessary special qualification(s) for the position, and Wisc.Jobs will certify those applicants with that qualification(s).

Prior to making an offer, agency staff must verify whether the applicant has the necessary qualifications. If the applicant does not, agency personnel must update the applicant’s record in Wisc.Jobs so they will no longer be certified with this qualification. In addition, provide the applicant with a removal letter stating that the information has been updated and their name has been removed from the certification. Enter “Not Eligible” (NE) as the report of action in Wisc.Jobs. Document the reason for the NE. Agencies may receive a replacement name, if available.

**Note:** It is possible that the applicant could be eligible for certification under Basic or expanded certification, i.e., VET, DEC, MEC, or WEC. Entering a report of action of NE changes that applicant's status on the register to a status that prevents future certification regardless of the category (Basic, VET, DEC, MEC, or WEC). Extra care should be taken to ensure that an applicant is not inactivated from the register too soon. (See Chapter 202-Assessment Evaluation and Register Establishment, of the *Wisconsin Human Resources Handbook* for more information regarding certification procedures.)

There are several websites that provide assistance in verifying applicant education. Links to these sites may be found on the DPM website

at: <http://www.doa.state.wi.us/Documents/DPM/Document%20Library/GuidanceForVerifyingApplicantEducation6715.pdf>.

### **Sec. 246.080 Enterprise Background Check Policy**

It is the policy of the State that prior to hire, a background check, which includes Selective Service Registration or Veteran Status verification, where applicable shall be conducted on all new hires.

Selective Service: Effective February 1, 2003, eligibility for an original appointment to a position in the classified service requires that the applicant comply with the registration requirements of the Selective Service System (SSS). This includes first time LTE and Project appointments. Selective Service Registration is not required for Unclassified appointments or contractors.

The Selective Service System sponsors a website at [www.sss.gov](http://www.sss.gov) that defines who is required to register. With few exceptions, all male United States citizens and male aliens residing in the United States and its territories must register with Selective Service within 30 days of their 18<sup>th</sup> birthday. Men cannot register after reaching age 26.

Selective Service checks should be performed before an employment offer is extended to a male who is age 18-25. At a minimum, registration must be verified prior to the employee starting. An agency can verify registration using the On-Line Verification System located at [www.sss.gov](http://www.sss.gov). Be prepared to enter the last name, Social Security Account number, and date of birth for the registered male.

**Note:** A person who registers with the SSS will receive a *Registration Acknowledgement Card* between 30 to 90 days following registration. If that person registers using the on-line registration system, he should receive acknowledgement in about two weeks.

If the person has not registered, do not proceed with the hire. Explain to the candidate that he must first register before he can be appointed to a position.

If the person refuses to register, he can no longer be considered for the position. Provide the candidate with a removal letter informing them that their name has been removed from the certification. Enter "Not Eligible" (NE) as the report of action on the certification list. Document the reason for the NE. (See Chapter 212–Certification of the *Wisconsin Human Resources Handbook* for information on entering a report of action.)

Agencies are required to develop procedures for conducting background checks that are in addition to Selective Service Registration verification and Veteran Status verification. These types of background checks may include criminal history (in-state and out-of-state), civil records, sex offender registries, driving history, professional license and credential history/status, credit reports, and those required by Federal Regulation and/or Law. Agencies must submit a copy of their final Background Check Procedures to the DOA/DPM BMRS Director for review and approval prior to implementation. Any time changes are made to these procedures, an updated copy of the procedures must be sent to BMRS for approval.

When the agency central office Background Check Procedures have been approved by BMRS, the agency may be delegated authority to review the individual institution procedures for adherence to the BMRS-approved agency



central office policy without having those individual institution procedures forwarded to BMRS for approval. For example, a certain institution may require a background check on every position at the institution because the position(s) would have access to a vulnerable population. Under these circumstances, the agency central Human Resources office, with delegated authority from BMRS, could approve the institution's procedure as long as it is in line with the BMRS approved agency procedures.

Due to the confidential nature of background checks, only a limited number of Human Resources staff in the agency should be authorized to conduct the background checks or review the results, unless an alternate individual or process is required for compliance with other State or Federal Regulations, Laws, or Policies. Background checks should be conducted after certification unless otherwise approved by the BMRS Director. If agencies need to collect background information prior to certification, approval from the BMRS Director is required prior to collecting information. The Background Check Approval/Exception Request form is located in Attachment #3. Approved requests can be applied to subsequent positions for the same classification that have the same justification/evidence. Agencies are required to maintain a copy of the approved request with the completed background check.

### **Sec. 246.090 Pending Charge and Conviction Records**

1. Agencies must comply with the Wisconsin Fair Employment Act and other applicable laws to ensure individuals are not discriminated against due to of arrest, pending charge or conviction records. While the Wisconsin Fair Employment Act prohibits employment discrimination because of an arrest or conviction record, agencies may base an employment decision upon pending criminal charge and/or a conviction record during the hiring process **if** the circumstances of the offense are substantially related to the duties, responsibilities and circumstances of the job or if the position is one for which the law prohibits the appointment of an individual with certain convictions.
2. Pending charge and conviction record information may not be requested and required of an applicant before the applicant has been certified for the position, unless approved by the Director. The determination to conduct background checks will be made **prior** to posting a job announcement and such announcement will state that a background check is required.
3. Interviewers may not ask any arrest, pending charge or conviction record-related questions. If candidates volunteer arrest, pending charge or conviction record information during the interview, interviewers should respond that all hiring decisions are made in accordance with the law. Interviewers should avoid discussing the candidate's arrest, pending charge or conviction record.
4. A person may not be discriminated against based on a pending charge and/or conviction record unless there is a substantial relationship between the circumstances of the pending charge and/or conviction and the duties and responsibilities of the position. The purpose of the "substantial relationship test" is to assess "whether the tendencies and inclinations to behave in a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed." See **County of Milwaukee v. LIRC**. 139 Wis. 2d 805, 824, 407 N.W.2d 908 (1987). In making a determination as to whether or not a substantial relationship exists, the following factors will be taken into consideration. (Note: Based on the specific position, there may be additional factors that should be taken into consideration.)
  - a. The Position
    - 1) The nature and scope of the position's public, inmate, patient, or client contact.
    - 2) The nature and scope of the position's discretionary authority and degree of independence in judgment relating to decisions or actions which affect the public, patients, inmates, or clients.
    - 3) The extent to which acceptable job performance requires public, inmate, patient, or client trust and confidence.
    - 4) The amount and type of supervision received in the position.
    - 5) The amount and type of supervision provided by the position to subordinate staff, if any.
    - 6) The sensitive nature of the data or records maintained.

- 7) Whether the position includes fiduciary responsibilities.
- 8) Whether the position is one for which the Legislature has determined certain offenses to be a bar to employment (such as caregivers).
- 9) The nature and scope of the position, including key access to residential facilities, key access to other facilities, access to firearms, access to cash, access to operator's licenses and identification cards or the information systems in which they are stored, or access to vulnerable populations, including minor children.

b. The Offense

- 1) Whether intent is an element of the offense.
- 2) Whether the elements of the offense are substantially related to the job duties.
- 3) Whether the circumstances of the pending charge or conviction arose out of an employment situation.
- 4) Whether the offense is one that under Federal or State law is a bar to employment for the specific job.
- 5) The statutory elements of the offense

c. The Person

- 1) The age of the person at the time of the offense.
- 2) The recency of the offence.
- 3) Whether there are patterns or reoccurrences of offenses.
- 4) Whether the person completed a rehabilitation program.
- 5) The seriousness and nature of the violation in relation to the duties and responsibilities of the position.

5. If an individual being considered for a position has a criminal conviction or pending charge that is substantially related to the new job responsibilities, it is not employment discrimination to refuse to employ the individual because of such pending criminal charge or conviction record (s. 111.335(1)(b) and (c), Wis. Stats.). If an offer has already been extended or employment has commenced due to the presence of special circumstances as described in section. 246.130 (9), Offering a Position and Appointment Letters, of this handbook chapter, the offer should be rescinded or the appointment terminated (s. 111.335(1)(b), Wis. Stats.).

### **Sec. 246.100 Background Check Confidentiality and Training**

Information collected in connection with the background check will be treated confidentially to the extent permitted by the Wisconsin Public Records Law and other applicable laws. The background check procedure will identify the appropriate employee(s) to perform criminal background checks and the scope of their responsibilities. Background check results should be reviewed by someone qualified to determine if there are any pending charges or convictions that substantially relate to the job. A key component of this role involves keeping information confidential except on a need-to-know basis or as required by the Public Records Law. Individuals who conduct background checks or view the results must take part in training or have the appropriate background and experience before being authorized to be involved. This training or experience will include review of the policies set forth in this handbook chapter and the agency background check procedures, along with any other laws (e.g., Caregiver Law, etc.) that are pertinent to the agency. Documentation of completion should be provided to those who have taken training. In addition, a notation indicating the receipt of training should be maintained with the list of individuals in the agency approved to conduct or review the background checks. Individual(s) who conduct background checks or view the results must sign a Confidentiality Agreement (see Attachment #1). Inappropriate use may constitute a work rule violation and may be grounds for appropriate disciplinary action. (See Work Rule #12 in Chapter 410 – Employee Work Rules and Discipline Procedure, of the *Wisconsin Human Resources Handbook*).

Upon request, all agencies are required to provide copies of signed confidentiality agreements to the DOA/DPM BMRS Director that includes the names of individuals authorized to conduct and review background checks and the training/experience records of those individuals.

## Sec. 246.110 Determining Background Checks Required

Different types of background checks and/or evaluations may be utilized in addition to Selective Service Registration verification due to the nature of particular positions. The nature of certain positions could warrant conducting other non-criminal background checks such as drug analyses, psychological evaluations, and credit checks. Nothing in this policy precludes agencies from conducting position-specific checks (criminal and non-criminal) on an as-needed basis, however, such checks must be included in the specific job announcement.

The determination to conduct additional background checks will be made **prior** to posting a job announcement, consistent with the approved agency procedures and the provisions of this handbook chapter. The employing unit or department is responsible for notifying Human Resources that an additional background check is required in order to include appropriate notification information in all recruitment/announcement materials. The determination of whether to conduct the check requested will include identification of (1) when the background checks will be requested; (2) who will initiate the checks; (3) what checks will be needed; (4) who will conduct the checks; (5) who will be the authority that reviews the information and makes a decision (someone qualified to determine if there are any pending charges or convictions that substantially relate to the job); and (6) the procedures for handling and maintaining the records.

Only those additional checks that are directly related to the duties and requirements of the position should be included in the background check. (See section 246.090 of this handbook chapter.) Additional background checks should be required for every permanent and every new hire (including contractors, limited term employees [LTE], project appointments, interns, intergovernmental exchanges) when any one of the following conditions apply:

1. When employment depends on the bondability of the individual. (See s. 111.335(1)(a), Wis. Stats.)
2. If the law prohibits the appointment of an individual with a criminal conviction record to a specific classification (e.g., the position requires the employee to possess and use a firearm). (See s. 941.29, Wis. Stats.)
3. If the position is one in which an applicant's potential pending charges or conviction record could substantially relate to the circumstances of the particular job or licensed activity. (See s. 111.335(1)(b) and (c), Wis. Stats., and section 246.120 of this handbook chapter.)
4. If the position involves fiduciary responsibility. (See s. 230.17(3), Wis. Stats.)
5. If the position involves access to operator's licenses and identification cards or the information systems in which they are stored. (See s.110.09, Wis. Stats.)
6. If the position is responsible for the care, safety and security of children and adults. (WI Caregiver Law)

**Note:** Any credit check to be conducted on any classification that does not fall under the fiduciary responsibility requirements must be approved by the BMRS Director even if previously approved.

The sequence agencies should run checks is: Background Check after certification (unless otherwise approved by the BMRS Director) and Selective Service Registration (before an offer is extended).

**Note:** Background checks conducted after certification, which are in addition to Selective Service Registration, are generally conducted after the completion of interview but prior to an offer being extended.

## Sec. 246.120 Determining Who is Subject to Background Check

1. **New Hire Checks:** Except as otherwise provided in this policy, prior to an offer being made, a criminal background check shall be conducted on each new hire that meets one or more of the conditions noted above in section 246.110. Criminal background checks may be conducted on new hires that do not meet one of the above conditions if provisions for such checks are included in the agency's approved background check procedures. See the definition of "new hire" in section 246.030(13) of this handbook chapter.
2. **Current and Restoring Employees:** Current employees may be subject to periodic background checks as established in the applicable background check procedures and laws. In addition, current employees may be

required to undergo a background check when moving to a different position or work unit. Where periodic checks of current employees are required by law, these requirements and classifications must be identified within the agency's background check procedures. If an agency receives information from a creditable source regarding a pending charge or conviction of a current employee, a background check may be conducted. For those positions that have been identified as warranting a background check, checks will be conducted on current or restoring employees upon movement within state service which includes but is not limited to promotion, transfer, demotion, reinstatement, restoration, or for options exercised in lieu of layoff.

A background check is not warranted if the employee is transferring within the same employing unit to a position with identical duties, responsibilities, and security clearances. Upon survey reallocation, no background check will be required if the position duties remain the same. If required, background checks should be conducted and results communicated to the transferring employee prior to him/her giving notice that he/she is leaving the current position. If the background check uncovers a pending criminal charge or a criminal conviction, section 246.130(7), second paragraph, applies. If a background check is performed on an existing permanent classified employee who is a member of an affirmative action (AA) target group and an adverse action is pending, the affirmative action officer should be consulted.

3. Contractors, LTEs, Project Appointments, Interns, Intergovernmental Exchanges: Candidates applying for or being utilized in these positions will have a background check conducted where it is otherwise required by law or approved institutional/agency procedure. If a background check is required on a contractor, the contractor's agency may conduct the background check as long as the same qualifications are being checked as would be checked on a permanent employee and results shared with the employing agency. Absent a background check being conducted by the contractor agency, the employer must conduct the background check. Any position in a job category with job duties covered by the Wisconsin Caregiver Law, Fiduciary Responsibility Law, or a similar law where a background check is required, will require a background check.

<p><b>Note:</b> If there is an existing contract for personal services, this policy must be applied at the time of renewal of the contract.</p>
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### Sec. 246.130 Agency Background Check Procedures

Agencies must develop specific procedures for the administration of background checks during their hiring process that include the following criteria:

1. Identify Who Will Check: The background check procedure will identify the appropriate Human Resources employee(s) (or law enforcement due to internal procedure or regulation) to perform criminal background checks and the scope of their responsibilities. If Federal Regulation and/or Law mandates an alternate individual or process be used to conduct a background check those directives should be followed. Background check results must be reviewed by someone qualified to determine if there are any pending charges or convictions that substantially relate to the job. A key component of this role involves keeping information confidential except on a need-to-know basis or as required by the Public Records Act. See section 246.100 of this handbook chapter for reporting requirements.
2. Notification to Human Resources of Needed Check: The employing unit or department is responsible for notifying Human Resources what type of background check will be conducted in order to include appropriate notification information in all recruitment/announcement materials.
3. Announcing a Vacancy: All vacancy announcements requiring background checks beyond Selective Service verification must contain a statement informing the applicant of the required check. The following statement (or similar) may be used for criminal checks: **“Employment will require a criminal background check.”** All vacancy announcements requiring a fingerprint background check must contain the following (or similar) statement: **“Employment will require a background check which may include FBI fingerprinting.”**

4. **Conducting Criminal Background Checks:** Criminal background checks will be conducted on candidates recommended for hire, either prior to the extension of an offer of employment or as part of an offer of employment that is contingent upon a review of the criminal background check results. Individuals should not begin employment before a successful criminal background check is completed, except under special circumstances (e.g., the agency needs to have individuals begin employment in order to participate in scheduled training) as determined by the employing agency-approved background check procedures.
5. **Conducting Non-Criminal Background Checks:** Agencies are required to verify selective service registration (if applicable) on all new hires. Other non-criminal checks will be conducted either prior to the extension of an offer of employment or as part of an offer of employment that is contingent upon a review of the non-criminal background check results. Individuals should not begin employment before a successful check is completed, except under special circumstances (e.g., the agency needs to have individuals begin employment in order to participate in scheduled training) as determined by the employing agency-approved background check procedures.

**Note:** Selective Service Registration verification must be conducted prior to the start date but may be conducted prior to an offer of employment.

6. **Processing Background Checks:** Agency procedures should address criteria for processing background checks. Specific procedures must be included for processing checks if an applicant has worked or resided out-of-state. Background checks will include checks of records in all jurisdictions deemed prudent. The following process should be followed:

- a. **In-house Check**—If the final candidate has lived only in Wisconsin and has no employment history outside the state, the agency may conduct the check in-house by using the Wisconsin Department of Justice (DOJ) State of Wisconsin Criminal Background Check process and the Wisconsin Sex Offender Registry, as well as any other applicable on-line databases. In the alternative, a private, commercial vendor may be used to conduct the background checks. A hybrid approach may be used that involves performing a social security number trace and sex offender check through a vendor. If the result of the social security number trace shows Wisconsin residence only, the background check may be completed by using the DOJ and the Wisconsin Sex Offender Registry check process.

Certain positions referenced in s.110.09, Wis. Stats.—Background checks are required for certain positions in the division of the Department of Transportation (DOT) responsible for issuing operator’s licenses and identification cards. The DOT, with the assistance of the Department of Justice (DOJ), shall conduct the background investigations which may include requirements for fingerprinting or other technologies approved by law enforcement agencies. The DOJ shall submit any such fingerprints to the Federal Bureau of Investigation for identity verification and criminal arrests and convictions. Additionally, prior to granting personal access to any information system which stores information maintained by the division, the DOT shall require the employer, including any state agency, to conduct a background check in a manner described by the DOT. This may include requirements for fingerprinting and action as described above.

- b. **Out-of-state Check**—If the final candidate has an out-of-state employment history or has lived outside the state, an out-of-state check must be conducted when required by law. Background checks may be conducted at the agency’s discretion when not required by law as approved in their background check policy. In-house checks can be conducted by utilizing information the candidate has provided (resumé/vitae, reference check information, past employment information, etc.) and accessing available criminal records in other states. In the alternative, a private, commercial background-check vendor may be used. The agency is required to comply with the federal FCRA if using a private vendor. The FCRA can be found at <http://www.ftc.gov/os/statutes/fcra.htm>.

The standard package for out-of-state criminal background checks through a vendor should include:

- 1) Social Security Number Trace—Authenticates applicant’s information and generates a list of addresses where the applicant has lived for the last seven years.
- 2) Criminal Felony/Misdemeanor by county of residence—superior and municipal court records in any county in the United States.
- 3) Sex Offender Registry—sex offender search by state.
- 4) Additional criminal and non-criminal checks (e.g., motor vehicle) may be run when appropriate for a specific position.

7. Making the Decision Regarding Substantial Relationship: Once the background check is completed, a decision needs to be made based on the results. To comply with the Wisconsin Fair Employment Act, the agency will need to determine if the “pending criminal charge” or “conviction record” is “substantially related to the circumstances of the particular job.” The needed review includes the circumstances of the offense (where it happened, when, etc.), compared to the circumstances of the job (where is the job typically done, when, etc.), as well as the person (age, recency, rehabilitation, etc.). The more similar the circumstances, the more likely a “substantial” relationship exists. When determining whether the results of a background check are substantially job related, the criteria set forth in section 246.090 of this handbook chapter should be followed as they relate to the job, the offense, and the person.

If the check uncovers a pending criminal charge or a criminal conviction, the reviewer will consult with legal counsel and the affirmative action officer (if it meets AA criteria described in section 246.120(2) of this handbook chapter) to determine whether the criminal activity is substantially related to the functions of the position. Each applicant or current employee will be reviewed on a case-by-case basis and the information in section 246.090 is considered in order to determine whether there is a substantial relationship between the pending charge or conviction and the position, and whether the applicant or current employee should be further considered for the position. A final determination will be made on whether to appoint or reject the candidate on the basis of a criminal check.

8. Candidate Notification of Negative Background Check Results: If a private, commercial background check vendor is used, the State and the vendor must ensure compliance with the federal FCRA, which includes a requirement to notify the applicant if the information obtained from a credit, non-criminal or criminal background report is the reason for the applicant not being selected for a position. Details regarding this requirement can be found in Section 615 of the FCRA at <http://www.ftc.gov/os/statutes/fcra.htm>. See Attachment #2 of this handbook chapter for a sample FCRA Authorization Form. See Attachment #4 for *Applicant Consent For Background Check* form (DOA-15506).
9. Offering a Position and Appointment Letters: Criminal background checks may be completed prior to making an offer of employment. If a check is not completed before an offer is made, the check must be completed prior to commencement of employment except in special cases as approved by the appointing authority or designee. In most cases, only the applicant being offered the position will undergo a background check, however, there may be circumstances where more than one applicant is checked. If an appointment is offered contingent on the successful completion of a criminal background check or an employee is permitted, upon approval of the appointing authority or designee, to commence employment pending completion of a check, the appointment letter must contain the following (or similar) statement: **“This appointment is conditional pending the results of a background check.”** Or **“Following appointment you must be successful in obtaining a security clearance to gain access to [insert area] and Federal computer systems.”**
10. Documentation: Documentation will include all background search efforts, such as phone calls, letters, record search results, etc. A record of all background search efforts and results will be documented and retained. Completed background checks must be recorded at a minimum in PeopleSoft. Agencies may request approval from the BMRS Director to use an alternative system to record background checks by use of the *Background Check Request/Exception* form (DOA-15507 – See Attachment #3).
11. Maintenance of Records: Records gathered as a result of a criminal background check will be securely maintained (not in the official personnel file) and accessed only on a need-to-know basis or as required by

applicable law. These records should include: (a) information collected from the background check; (b) analysis and decision whether criminal activity (if any) was substantially related to positions; and (c) correspondence related to the background check. If an open records request is made, the agency's legal counsel should be consulted to determine what information is covered by the State's open record law.

When Background Check Consent forms are collected prior to hire, the information must remain in a sealed envelope until the applicant is selected as a finalist for the position. When Background Check Consent forms are collected but no background check is conducted, the envelopes must remain sealed and retained per Records Disposition guidelines.

When Background checks forms are collected electronically, the information must not be reviewed and evaluated until the applicant is selected as a finalist for the position. When Background Checks are collected electronically but no background check is conducted, the forms should be printed and stored per the Records Disposition guidelines or stored electronically per the Records Disposition guidelines.

Sec. 893.53, Wis. Stats., provides a six (6) year limitation for actions for injury to character or other rights. The Wisconsin Supreme Court held that this was the appropriate statute of limitation for Federal 1983 lawsuits which could be commenced by an applicant as a result of adverse action taken because of a background check. **Hemberger v. Bitzer**, 216 Wis. 2d 509 (1998). Therefore, the destruction of the records should not occur prior to 6 ½ years from the hiring transaction for which the background check was used per RDA HR-000017.

#### **Sec. 246.140 Background Check Resources**

1. Criminal and Civil Records: The Wisconsin Consolidated Court Automation Program (CCAP) provides certain criminal and civil record information contained in circuit court records. CCAP can be found at <http://wcca.wicourts.gov>. Please note that the coverage of CCAP data varies from county to county, as indicated in the Agreement on the site.
2. Registered Sex Offenders: The Wisconsin Sex Offender Registry provides certain information relating to sex offenses for registered offenders and may include information on out-of-state convictions. The Sex Offender Registry can be found at <http://offender.doc.state.wi.us/public>. Agencies are advised to check the Registry if an applicant has a known sex offense or if a sex offense would be substantially related to the job duties of the position being filled. The Registry should be used only to cross-check other sources of criminal history, not as a primary source of criminal history information. Please note that some of the information provided in the Registry is self-reported by the offender. Agencies should notify the Registry of any information on the web site believed to be inaccurate or incomplete by calling 877-234-0085 or sending an email to [docsafetips@doc.state.wi.us](mailto:docsafetips@doc.state.wi.us).
3. Driving History: A copy of an applicant's driving history may be obtained by submitting a completed form and fee to the Wisconsin Department of Transportation, Division of Motor Vehicles. The form can be found at <http://www.dot.wisconsin.gov/drivers/records.htm>.
4. Professional License and Credential History and Status: Verify the status of an applicant's Wisconsin license through the Wisconsin Department of Safety and Professional Services at <https://app.wi.gov/licensesearch>. Verify the status of professional educator licenses through the Department of Public Instruction at <http://dpi.wi.gov/tepd/lookup/public-search>.
5. Credit Report: Prior to obtaining a consumer credit report on a specific individual, the hiring agency must certify to the credit reporting agency that the employer: (1) has provided a clear and conspicuous disclosure to the person who is the subject of the report; (2) has received written permission from the individual to obtain the report; (3) will not use the information in violation of any applicable federal or state equal employment opportunity law or regulation; and (4) will abide by the requirements of the FCRA if any adverse action is taken wholly or partially as a result of the report. Contact a credit bureau, e.g., Equifax, Experian,

Trans Union, etc., to perform a credit check.  
Equifax (<http://equifax.com>)  
Experian (<http://experian.com>)  
Trans Union (<http://truecredit.com>)

6. Caregiver Misconduct: Pursuant to the Wisconsin Caregiver Background Check, the Department of Health Services' Caregiver Misconduct Registry uses social security numbers as one identifier to prevent incorrect matches of persons with findings of abuse or neglect of a client or misappropriation of client's property. <https://www.dhs.wisconsin.gov/caregiver/misconduct.htm>
7. Selective Service: The Selective Service System provides an online search for those individuals who have registered for the Selective Service and provides information regarding who is required and how to register. <https://www.sss.gov/Registration/Check-a-Registration/Verification-Form> A list of those who must register with the Selective Service can be found at <https://www.sss.gov/portals/0/PDFs/WhoMustRegisterChart.pdf>.

**Note:** The Department of Workforce Development publishes a fact sheet that includes useful information on what an employer may do under the Wisconsin Fair Employment Act. ([http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_11055\\_p.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_11055_p.htm))

### **Sec. 246.150 Administrative Information**

This chapter was published in August 1981 as Chapter 120 of the *Wisconsin Personnel Manual*. It was revised in March 2004 to reflect current procedures and renumbered to Chapter 246 of the *Wisconsin Human Resources Handbook*.

The chapter was updated in August 2005 to add additional explanation under the definition section for arrest record, conviction record, and law enforcement officer. Also, the updated chapter included additional information for agencies on topics that should be included in their criminal background check policies. Lastly, the chapter was updated to correct an error in section 246.040(4)(d)(2). In the previous version, it stated that "No person convicted or found guilty by reason of mental disease or defect . . ." It was corrected to say "No person convicted or found *not* guilty by reason of mental disease or defect . . ."

In June 2006, the chapter was updated to include the following information:

Reference to s. 230.17 (3), Wis. Stats.

Definition of fiduciary responsibility.

The requirement for agencies to develop a policy on background checks and the information that should be included in the policy (section 246.050 of this handbook chapter).

Guidance on who should conduct background checks and review information obtained through the background check.

Information on the Wisconsin Caregiver Law.

Guidance on what information should be shared with applicants regarding the results of the background check.

Information on the Wisconsin Sex Offender Registry.

Confidentiality Agreement for employees involved in background checks.

Sample Applicant Consent form.

In November 2007, the chapter was renamed from Securing Applicant Arrest and Conviction Information to Securing Applicant Background Checks and updated to provide the following information:

Further delineation of required policies and recommended procedures for agencies to incorporate into their individual policies.

Reporting requirements.

List of classifications approved for a background check.

Sample FCRA consent form and applicant rights sheet.



Remove the Sample Applicant Consent form.  
Stipulate records retention for background checks should be at least 6 ½ years.

In May 2008, clarifying language was added as a note in Sec. 246.050 that any credit checks to be conducted on any classification that does not fall under fiduciary responsibility requirements must be pre-approved by OSER even if the classification is already included in the agency's approved background check policy.

Also, #2—List of Certified Titles was modified to segregate approved classifications into the following categories: Fiduciary; Caregiver; Law Enforcement, Security & Public Safety; and Military Affairs.

In July 2008, statutory reference added to Sec 246.020(6) and additions to Attachment #2 and chapter sections where appropriate regarding the requirement for background checks of persons in positions within the division of the Department of Transportation responsible for issuing operator's licenses and identification cards, as well as persons with access to information systems containing information maintained by the division.

The classification Payroll & Benefits Officer was added to Attachment #2 in January 2009.

In December 2009, Attachment #2, the "List of Certified Titles," was amended to include information about the new "[Background Check Approved Classifications](#)" spreadsheet which HR staff should consult prior to conducting background checks.

In July 2011, the chapter was modified to discontinue use of the above-mentioned "Background Check Approved Classifications" spreadsheet. Agencies are no longer required to send requests to OSER for review and approval to conduct background checks on individual positions. In compliance with state background check policies, agencies are responsible to review and approve the conduct of background checks on any positions which are not covered in this handbook chapter and identify them within that agency's approved background check policy. Modifications were made to section 246.050 to reflect this policy. The list of certified titles was removed from this chapter. With this change, OSER will no longer maintain or post an enterprise spreadsheet which listing all classifications for which individual agencies had been approved to conduct background checks.

In July 2016, Chapter 246 underwent a review and update pursuant to changes introduced by 2015 Wisconsin Act 55 and by 2015 Wisconsin Act 150. In July 2015, the Office of State Employment Relations was eliminated and the functions were transferred into the newly created Department of Administration, Division of Personnel Management. This chapter was updated to reflect the changes in terminology that resulted from the organizational restructuring. This chapter was also updated to address changes in procedural guidance and provide policy clarification. Included were creation and replacement of attachments. Major modifications included establishing Enterprise Policy and Agency Procedures to maintain consistency across the enterprise. All agencies are required to conduct Social Security verification and Selective Service checks prior to hire. Previous WHRH Chapter 244 – Verifying Applicant Information was combined with Chapter 246 – Securing Background Checks.

In July 2016 this chapter was updated to remove Social Security verification as it was determined this process would be automated through the State's human resources system. Agencies are not required to conduct additional, individualized SSN verification.

Attachment #1

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15502 (R05/2016)  
PREVIOUSLY OSER-DMRS-235



**CONFIDENTIALITY AGREEMENT  
(FOR EMPLOYEES WITH ACCESS TO INFORMATION ON BACKGROUND CHECKS)**

Name
Classification/Job Title
Department or Agency
Division
Bureau

Are you qualified to collect or review background check information? Initial below all that apply.

- I have the appropriate background and experience to collect or review background check information.
- OR
- I have been trained on collecting or reviewing background check information.

Note: The training or experience will include review of the policies and procedures set forth in Chapter 246 of the *Wisconsin Human Resources Handbook* and the agency background check procedures, along with any other laws (e.g., Caregiver Law, etc.) that are pertinent to the agency.

I understand that in the course of conducting a criminal background check, I may have access to information including, but not limited to, the results obtained from the criminal background check.

I understand that the information listed above, as well as other information to which I have access, is special or confidential information that could either improve or injure the prospects or chances of persons in the recruitment process. I agree to keep this information confidential and not to copy the materials, discuss them with anyone not specifically authorized by the Human Resources Specialist, Manager, or Representative, or allow any unauthorized person access to them. Failure to keep the information confidential may constitute insubordination and/or may result in a violation of a work rule, both of which could lead to discipline up to and including termination.

By signing below, I acknowledge that failure to adhere to the requirements set forth in this statement would be a violation both to the public trust and as a condition of my continued employment with the State of Wisconsin. I also acknowledge that I have the appropriate background and experience or have been trained to collect or review background check information.

Signature	Date
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STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15537 (C07/2016)



**FCRA Authorization  
Consent for Procurement of Consumer Credit Report**

I understand that, as a condition of my consideration for employment with Enter Company Name Here or as a condition of my continued employment with Enter Company Name Here, Enter Company Name Here may obtain a consumer report that includes, but is not limited to, my creditworthiness or similar characteristics, employment and education verifications, social security verification, criminal and civil history, personal interviews, DMV records, any other public records and any other information bearing on my credit standing, credit capacity, character, general reputation, personal characteristics and trustworthiness.

I hereby authorize and consent to the State of Wisconsin's procurement of such a report. I understand that, pursuant to the federal Fair Credit Reporting Act, the State of Wisconsin will provide me with a copy of any such report if the information contained in such report is, in any way, to be used in making a decision regarding my fitness for employment with the State. I further understand that such report will be made available to me prior to any such decision being made, along with the name and address of the reporting agency that produced the report.

\_\_\_\_\_  
Signature of Applicant or Employee Date

\_\_\_\_\_  
Printed Name of Applicant or Employee

\_\_\_\_\_  
(Please Print) Other names used

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Date of Birth Social Security #

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15538 (C07/2016)  
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**FCRA Authorization to Obtain a Consumer Credit Report and Release of Information for Employment Purposes**

Pursuant to the federal Fair Credit Reporting Act, I hereby authorize [Enter Company Name Here] and its designated agents and representatives to conduct a comprehensive review of my background through a consumer report and/or an investigative consumer report to be generated for employment, promotion, reassignment or retention as an employee. I understand the scope of the consumer report/investigative consumer report may include, but is not limited to, the following areas: verification of Social Security number; current and previous residences; employment history, including all personnel files; education; references; credit history and reports; criminal history, including records from any criminal justice agency in any or all federal, state or county jurisdictions; birth records; motor vehicle records, including traffic citations and registration; and any other public records.

I, [Enter Your Name Here] authorize the complete release of these records or data pertaining to me which an individual, company, firm, corporation or public agency may have. I understand that I must provide my date of birth to adequately complete said screening and acknowledge that my date of birth will not affect any hiring decisions. I hereby authorize and request any present or former employer, school, police department, financial institution or other persons having personal knowledge of me to furnish [Company Name] or its designated agents with any and all information in their possession regarding me in connection with an application of employment. I am authorizing that a photocopy of this authorization be accepted with the same authority as the original.

I hereby release [Enter Company Name Here] and its agents, officials, representatives or assigned agencies, including officers, employees or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release. You may contact me as indicated below. I understand that a copy of this authorization may be given at any time, provided I do so in writing.

I understand that, pursuant to the federal Fair Credit Reporting Act, if any adverse action is to be taken based upon the consumer report, a copy of the report and a summary of the consumer's right will be provided to me.

Please Print Clearly

1. Name (Full)	
2. Maiden Last Name	
3. Print All Former Names Used	(A) (B)
4. Social Security Number	- -
5. Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female
6. Race	
7. Date of Birth	- -

Attachment #2 cont.

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15538 (C07/2016)  
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8. Telephone Number	
9. Current Street Address	
10. City/State/Zip	
11. Driver's License Number	State Issued
12. Name on Driver's License	
13. May we contact your employers?	<input type="checkbox"/> Yes <input type="checkbox"/> No
14. May we contact your supervisors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Prior residence for past seven (7) years i. _____ ii. From _____ To _____ iii. _____ iv. From _____ To _____ v. _____ vi. From _____ To _____	
16. Have you ever been convicted of or pled guilty or "no contest" to a criminal charge?	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Are you currently awaiting trial, sentencing or disposition of a criminal charge?	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Have you even been a defendant in a civil action for intentional tort(s)? (Intentional torts include, but are not limited to, battery, assault, false imprisonment, defamation, fraud, conversion)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered Yes to Numbers 16, 17 or 18, provide the Case Numbers, Date of Action, Disposition, Place of Occurrence and Current Status Below	
20. Please explain. If more space is needed, add supplemental sheets.	
Signature	Date

Attachment #2 cont.

*Para informacion en espanol, visite [www.ftc.gov/credit](http://www.ftc.gov/credit) o escribe a la FTC Consumer Response Center, Room 130-A 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.*

### A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to [www.ftc.gov/credit](http://www.ftc.gov/credit) or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identify theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

In addition, by September 2005, all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

**Attachment #2 cont.**

- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.ftc.gov/credit](http://www.ftc.gov/credit).
- **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at:
  - 1-888-5-OPTOUT (1-888-567-8688).
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.ftc.gov/credit](http://www.ftc.gov/credit).

**States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:**

<b>TYPE OF BUSINESS:</b>	<b>CONTACT:</b>
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Consumer Help (FRCH) P O Box 1200 Minneapolis, MN 55480 Telephone: 888-851-1920 Website Address: <a href="http://www.federalreserveconsumerhelp.gov">www.federalreserveconsumerhelp.gov</a> Email Address: ConsumerHelp@FederalReserve.gov
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-519-4600
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center, 2345 Grand Avenue, Suite 100 Kansas City, MO 64108-2638 1-877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation , Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator – GIPSA Washington, DC 20250 202-720-7051

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15507 (C06/2016)  
PREVIOUSLY OSER-DMRS236



**BACKGROUND CHECK APPROVAL/EXCEPTION REQUEST**

Contact Person / Phone Number	Agency / Division / Bureau
Current Classification (including working title if requesting a credit check or to gather conviction record information):	Job Announcement Code (if requesting a credit check or to gather conviction record information):
Date of Request	

**Selection Summary** *(Check the box below which describes the approval you are requesting)*

- A.  Request to run a credit check. Prior to running a credit check, approval must be received by the BMRS Director.
- B.  Request to gather information regarding conviction records of applicants prior to certification. Gathering any type of conviction record information prior to certification must be approved by the BMRS Director.
- C.  Request to track completed background checks in a system other than PeopleSoft.

**Written Justification:** Provide a detailed description of the information you want to collect and the reason for collecting this information. If requesting to gather conviction record information, provide Justification/Evidence that the conviction record will disqualify the applicant for the position. If requesting to utilize a system other than PeopleSoft, describe the system you will use and the reason you want to use a different system.

Note: Approved/denied request forms shall be retained at the agency for audit verification purposes.

Recommended By:

\_\_\_\_\_  
Agency HR Manager or HR Specialist Signature & Date

Approved  Denied  by BMRS/Division Approval Authority

\_\_\_\_\_  
BMRS/Division Approval Signature & Date



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL MANAGEMENT  
DOA-15506 (C06/2016)



## APPLICANT CONSENT FOR BACKGROUND CHECK

### How are you protected?

Indicating you have an arrest or conviction record does not automatically disqualify you from consideration for a job. Wisconsin's Fair Employment Law, s. 111.31-111.395, Wis. Stats., prohibits discrimination based on an arrest or conviction record. It is not discrimination, however, to decline to hire a person based on the person's arrest record, a pending charge, or conviction record if deemed substantially related to the circumstances of the particular job. Information gathered in the Criminal Background Check will enable us to determine if the arrest or conviction record is substantially related to the job.

The information you provide on this form will be retained in a **confidential** manner.

### What do you need to do now?

Applicants are required to complete, sign and return the attached form in order to remain under consideration for this position. [Insert agency specific instructions for example: Please complete the form, place it in a sealed envelope and leave it with the interview coordinator or supervisor before you leave after your interview.]

Completed and signed forms may also be returned

By Fax

By E-Mail

By Mail

This form must be completed and returned within 2 business days of the date of your interview in order for you to continue to be considered for this position.

### Definition of terms used on this form:

**Arrest Record:** "Includes, but is not limited to, information indicating that an individual has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority." s. 111.32(1), Wis. Stats.

**Conviction Record:** "Includes, but is not limited to, information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or paroled pursuant to any law enforcement or military authority." s. 111.32(3), Wis. Stats.

**Criminal Charge:** A criminal complaint, information, or indictment filed in a state, federal, tribal or international court of law.

Prior to completing this form, it may be beneficial to review the Wisconsin Circuit Court records pertaining to you at <http://wcca.wicourts.gov> and obtain a copy of your driver license abstract at <http://www.dot.wisconsin.gov/drivers/drivers/request-record.htm>. Please remember not all fines/convictions may appear on the Wisconsin Circuit Court site. To obtain your complete record visit <http://www.doj.state.wi.us>

**Failure to report a fine and/or conviction may result in not being considered for this position.**

Questions about this form may be directed to [Insert contact information]

Attachment #4 cont.

**APPLICANT CONSENT FOR BACKGROUND CHECK**

HUMAN RESOURCES USE ONLY		
Position Type: <input type="checkbox"/> Permanent <input type="checkbox"/> Project <input type="checkbox"/> Limited-Term <input type="checkbox"/> Work Study <input type="checkbox"/> Volunteer <input type="checkbox"/> Contractor		
Position Number:	Cert Number (optional):	Classification Title:
Does this position have a fleet requirement? <input type="checkbox"/> Yes <input type="checkbox"/> No		

In order to be considered for the position, for which you applied, we must complete a Criminal Background Check. As part of the Criminal Background Check the [Insert agency name] may obtain a consumer report that includes, but is not limited to, creditworthiness or similar characteristics, employment and education verifications, social security verification, criminal and civil history, reference checks, DMV records, any other public records and any other information bearing on your credit standing, credit capacity, character, general reputation, personal characteristics and trustworthiness.

Failure to provide all requested information below, including your Social Security Number, will prevent [insert agency name] from completing the required background check for hiring purposes, and will result in your disqualification from the hiring process.

Name (Last, First, Middle)	Gender <input type="checkbox"/> Female <input type="checkbox"/> Male	Race
Date of Birth (Month/Day/Year)	Social Security Number	
Street Address	City, State, Zip Code	
Email Address	Day Phone: Evening Phone:	
Former Name(s)Aliases (First, Middle, Last) (Including Maiden Name)		

In the above box where it states “Human Resources Use Only” it notes if this position has a fleet requirement. If the box is marked as Yes, please fill in the following driver’s license information. If the box is marked No, you do not need to fill in the driver’s license information and can proceed after this section.

Driver’s License State	Driver’s License Number
------------------------	-------------------------

Have you always lived in Wisconsin  Yes     No  
If **No**, provide place(s) of residence (State/County) and time period(s)

Place(s) of residence outside of Wisconsin and time period(s) for the last 7 years. Attach additional pages if needed.
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**Attachment #4 cont.**

Do you have criminal charges pending against you?  Yes  No

Have you been convicted of any crime anywhere, including in federal, state, local, military and tribal courts?  Yes  No

If you answered "Yes" to any of the above questions, please indicate: (Attach additional pages if necessary to include the same information for each pending charge or convicted crime).

The nature of the offense	
Date of the offense	Date of conviction
County and State or territory where criminal charges(s) is/are pending against you.	
Name, location, address of court	
Please discuss the details of the incident and the disposition/outcome (sentence, fine, probation, Huber, suspension etc.).	

Notice: By my signature below I hereby authorize and consent to the State of Wisconsin's procurement of such a report. This information will be retained in my application file, which is confidential. Wisconsin's Fair Employment Law, s. 111.31-111.395, Wis. Stats., prohibits discrimination because of a criminal record or pending charge: however, it is not discrimination to decline to hire a person based on the person's arrest or conviction record if the arrest or conviction is substantially related to the circumstances of the particular job. Failure of any applicant (current or potential employee) to disclose any requested information, including but not limited to: criminal or ordinance violations, convictions, fines, forfeitures, pending charges (including traffic and DNR charges) or expunged offenses, will make you ineligible. This includes all adult fines and/or convictions regardless of how many years have elapsed.

I affirm that all the information on this document is true and complete to the best of my knowledge and I understand that any falsification or omission of information will disqualify me for this position. I authorize the [insert Agency Name] to conduct a background check and verify the information provided above and to procure a consumer credit report if applicable.

APPLICANT SIGNATURE	DATE SIGNED
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HUMAN RESOURCES USE ONLY			
Processed by:	Date Processed:	Requested by:	Decision <input type="checkbox"/> Eligible <input type="checkbox"/> Not Eligible

Distribution: Original – HR File