

430 – Criminal Background Checks

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1.0 PURPOSE

Because the Des Moines Pool Metropolitan Park District (District) provides services to children under the age of 16, developmentally disabled persons and vulnerable adults the District needs adequate information to properly screen prospective employees, volunteers, and/or independent contractors who have unsupervised access to these groups. Additionally, most District pool employees are responsible for collecting or disbursing cash or processing credit/debit card transactions.

2.0 POLICY

The District requires background checks in compliance with RCW 35.61.130 for all employees, volunteers, or independent contractors, who may, in the course of their work or volunteer activity with the District, have unsupervised access to children or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions.

1. When necessary, as determined by the District, prospective employees, volunteers, or independent contractors may be employed on a conditional basis pending completion of the investigation.
2. If the prospective employee, volunteer, or independent contractor has had a record check within the previous twelve months, the District may waive the requirement upon receiving a copy of the record.
3. The District will pay the costs associated with the record check for the prospective employee, volunteer, or independent contractor.
4. The District shall provide a copy of the record report to the employee, volunteer, or independent contractor.

3.0 DEFINITIONS

Applicant: (1) any prospective employee who is responsible for collecting or disbursing cash or processing credit/debit card transactions or will or may have unsupervised access to children under sixteen years of age, developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the District. (2) any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the District.

Conviction record: "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

Crime against children or other persons: a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful

430 – Criminal Background Checks

imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

Crimes relating to financial exploitation: a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

Unsupervised: not in the presence of (a) another adult employee or volunteer from the District or, (b) any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the District.

Vulnerable adult: vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

4.0 PROCEDURES

Under the Child and Adult Abuse Information Act, requests for criminal history records information (CHRI) are limited to businesses or organizations licensed in the state of Washington; any agency of the state; or other governmental entities that educate, train, treat, supervise, house or provide recreation to developmentally disabled persons, vulnerable adults or children under the age of 16.

4.1 Notices on Applications

The District requires proper screening of all prospective applicants. If the District or designee (e.g. pool manager) determines that a particular job or volunteer position requires a clear background check, the District will indicate this as a required qualification on the job description, volunteer assignment documentation, internal job postings, outside advertisements and/or written conditional job offers. In the case of existing employees who seek transfer or promotion to such a job, this same information should be made available to them when interest in changing positions is first discussed. This provision of advance notice applies only to hires that take place after the policy is in force and will help defend a claim that the background check is being unfairly applied to employees on the basis of race, gender or other factors.

RCW 43.43.834 requires an entity to notify an applicant who may be offered a position as an employee or volunteer that a background check inquiry may be made before the organization actually makes the request for a conviction record to the WSP. Therefore, all District job descriptions shall include information on the background check requirement. Also, all employment applications shall include a criminal history form (see Addendum 430-A) which asks the applicant to first disclose whether he or she:

4.1.1 has been convicted of a crime

4.1.2 has had finding made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or

4.1.3 has both a conviction under 4.1.1 and findings made against him or her under 4.1.2) of this subsection.

430 – Criminal Background Checks

4.2 Obtaining Criminal Record

The District will request a Criminal History Record Inquiry (CHRI) through the Washington State Patrol (WSP) and through the Department of Justice (FBI) for nationwide review. Fingerprint cards will be made available by the District and completed through a 3rd party.

4.3 Screening the Criminal Record

The CHRI should be limited to the subject's conviction record. Upon receipt of the CHRI, the District will screen the conviction record for crimes which would eliminate the candidate from consideration for employment or volunteer positions as are outlined RCW 43.43.830 and this policy. Once the results have been received by the District, a copy of the report must be provided to the applicant within 10 days. All information obtained from a background check should be retained in accordance with the current Washington State local government record retention schedule and secured in a locking cabinet.

Under RCW 43.43.834, the District shall use this record only in making the initial employment or engagement decision. Violating this statute could subject the District to a civil action for damages.

4.4 Use Guidelines:

4.4.1 New Hires: Background checks are required for all new hires. This includes all full-time, part-time, temporary part-time employees and volunteers. The background check may be satisfied pursuant to section 2.2 of this policy.

4.4.2 Rehires: A background check is required for all rehires (including volunteers) that have been separated from the District for longer than 90 days. The background check may be waived pursuant to section 2.2 of this policy.

4.4.3 Eligibility to Start: New hires or rehires may begin working immediately at the District Pool provided they are closely supervised (i.e. a supervisor has eyes on them and is within arm's distance from them) until their CHRI has returned and cleared them for unsupervised work. This means they are prohibited from the following activities unless they are closely supervised at all times:

- Collecting or disbursing cash or processing credit/debit card transactions
- Working in contact or being alone with children under sixteen years of age, developmentally disabled persons or vulnerable adults

4.5 Verification of Background Checks

The results of the background check will be sent directly to the District General Manager or designee who will review the report. If any discrepancies or criminal history are noted, the District General Manager or designee will make the final determination. The District reserves the right to consult with legal counsel.