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## **NATIONAL SERVICE CRIMINAL HISTORY CHECK (NSCHC)**

**Category:** Research

**Date Established:** 05/06/2024

**Date Last Revised:** 05/06/2024

**Responsible Office:** Office of Research and Sponsored Programs (ORSP)

**Responsible Administrator:** Associate Provost for Research Development and Administration

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### **PURPOSE**

National Service Criminal History Checks (NSCHC) is a baseline screening requirement established by law to protect the beneficiaries of national service.

### **SCOPE**

NSCHC is mandated by Congress under the National and Community Service Act of 1990, as amended by the Serve America Act (SAA). The statutory requirement at [42 U.S.C. § 12645g](#) is supplemented by regulatory requirements at [45 CFR §2540.200 through §2540.207](#) as well as the terms and conditions of AmeriCorps grants.

Any grant awarded to the Research Foundation of SUNY (RFSUNY) from AmeriCorps funding must follow the federal civil rights laws, including Title VI and VII of the Civil Rights Act of 1964.

The process was established to protect the most vulnerable and mitigate the risk of unintended harm coming to those who receive help from AmeriCorps programs. AmeriCorps Grantees and Subgrantees are legally required to maintain compliance. An NSCHC must be conducted, reviewed, and a final eligibility determination made by both the Project Director (PD) and the Office of Research and Sponsored Programs (ORSP) based on the recommendation of the NSCHC.

### **POLICY**

Any RFSUNY or SUNY Oswego employee funded by AmeriCorps support who is over the age of 18 and receives a salary (directly or indirectly, including cost share match), National Service Education Award, living allowance, or stipend under AmeriCorps grants (Covered Individual), even if the activities do not involve service with vulnerable populations, must undergo the NSCHC prior to the first day of employment or service under the grant. Failure to complete and adjudicate the NSCHC before the individual begins work or service may result in cost disallowances.

Covered Individuals will be required to be screened based on three different measures:

1. A nationwide name-based check of the National Sex Offender Public Website (NSOPW). The NSOPW (<https://www.nsopw.gov/>) is a centralized system that finds people who are registered as sex offenders in states, territories, and with many federally recognized Tribes,

2. A name or fingerprint-based search of the statewide criminal history registry in the candidate's state of residence and in the state where the person will serve or work, and
3. A fingerprint-based FBI check

Third party NSCHC databases: RFSUNY at Oswego has established accounts with two AmeriCorps-approved vendors to satisfy the above three Check measures. NSOPW (#1) and state name or fingerprint (#2) searches can be accomplished by the Covered Individual registering with [Truescreen](#) and (#3) [Fieldprint](#). Please contact [ORSP](#) to acquire sign-on credentials.

Written permission must be obtained from the Covered Individuals to authorize all required searches before initiation of the process. Documentation of these permissions as well as the determinations must be retained in both the PD and ORSP Covered Individual's grant NSCHC files.

**The Project Director (PD), or designee, is responsible for:**

1. Informing the Covered Individual of their rights regarding the NSCHC including informational privacy practices;
2. Providing the Covered Individual information on how the NSCHC results will be used by the program;
3. Giving reasonable opportunity for the Covered Individual to review and, if desired, challenge the accuracy of the NSCHC results;
4. Making a reasonable effort to safeguard the confidentiality of any information obtained by the NSCHC;
5. Ensuring any Covered Individual is not charged for any portion of the NSCHC components;
6. Verifying there has been no break in service exceeding 180 days. If this occurs, the Covered Individual must be subjected to a renewed NSCHC;
7. Identifying the process used for consistent application of name-based standards; and
8. Monitoring the expiration dates of all documents for the Covered Individuals, maintaining a copy of the Certificate of Completion and forwarding a copy to ORSP for the grant file.

Covered Individuals are also required to successfully complete an annual e-training course provided by [AmeriCorps e-course training](#) prior to the expiration date. See Appendix B for a checklist to help coordinate these requirements.

**RESPONSIBILITIES and RECORDS MANAGEMENT**

The Project Director is responsible for:

1. Implementing this policy;
2. Identifying the covered positions;
3. Ensuring the appropriate Checks are completed on a timely basis;
4. Clarifying to the potential staff person that employment is contingent upon successful completion of the Fieldprint and Truescreen searches;
5. Maintaining confidential files documenting the third party NSCHC determination;

6. Forwarding copies of all documents to ORSP as the formal Office of Record for the grant;
7. Retaining sufficient documentation for each Covered Individual that includes:
  - a. A Certificate of Completion of the annual e-training course
  - b. A renewed NSCHC, if there is a break in service exceeding 180 days
8. Recommending to RFSUNY a preliminary adjudication based on the search results

RFSUNY/ORSP is responsible for:

1. Monitoring NSCHC completion and compliance;
2. Maintaining a complete file of all NSCHC documentation; and
3. Ensuring the PD follows and sufficiently documents all the required elements for a staff person's NSCHC eligibility
4. Reviewing the findings of the searches and make an eligibility determination before allowing the Covered Individual to begin work or service;
5. Documenting an official adjudication for the record and following up as needed if the Covered Individual has questions, concerns or requests further consideration.

## **GOVERNING LEGISLATION**

### **Code of Federal Regulations (Appendix A)**

RFSUNY's NSCHC policy was developed in accordance with federal law:

- United States Title 45 Code of Federal Regulations
- 45 CFR Part 2540
- Subpart B
- Regulations as Relating to Public Welfare
- Chapter XXV – Corporation for National and Community Service
- Part **12645g. Criminal History Checks Parts** 2500 -2599– General Administrative Provisions

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### **Contact Information**

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# Code of Federal Regulations Appendix A

## Pertinent selections from Title 45 - Public Welfare

Volume: 4 Date: 2014-10-01 Original Date: 2014-10-01 Title: Subpart B - Requirements Directly Affecting the Selection and Treatment of Participants Context: Title 45 - Public Welfare. SUBTITLE B - Regulations Relating to Public Welfare (Continued). CHAPTER XXV - CORPORATION FOR NATIONAL AND COMMUNITY SERVICE. PART 2540 - GENERAL ADMINISTRATIVE PROVISIONS.

### **§12645g. Criminal History Checks**

#### (a) In general

*Each entity selecting individuals to serve in a position in which the individuals receive a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws, shall, subject to regulations and requirements established by the Corporation, conduct criminal history checks for such individuals.*

#### (b) Requirements

*A criminal history check under subsection (a) shall, except in cases approved for good cause by the Corporation, include—*

- (1) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); and*
- (2)(A) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; or*  
*(B) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.*

#### (c) Eligibility prohibition

*An individual shall be ineligible to serve in a position described under subsection (a) if such individual—*

- (1) refuses to consent to the criminal history check described in subsection (b);*
- (2) makes a false statement in connection with such criminal history check;*
- (3) is registered, or is required to be registered, on a State sex offender registry or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); or*
- (4) has been convicted of murder, as described in section 1111 of title 18.*

#### (d) Special rule for individuals working with vulnerable populations

##### (1) In general

*Notwithstanding subsection (b), on and after the date that is 2 years after April 21, 2009, a criminal history check under subsection (a) for each individual described in paragraph (2) shall, except for an entity described in paragraph (3), include—*

- (A) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.);*
- (B) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; and*
- (C) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.*

##### (2) Individuals with access to vulnerable populations

*An individual described in this paragraph is an individual age 18 or older who—*

- (A) serves in a position in which the individual receives a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws; and*
- (B) as a result of such individual's service in such position, has or will have access, on a recurring basis, to—*
  - (i) children age 17 years or younger;*
  - (ii) individuals age 60 years or older; or*
  - (iii) individuals with disabilities.*

(3) Exceptions

*The provisions of this subsection shall not apply to an entity—*

*(A) where the service provided by individuals serving with the entity to a vulnerable population described in paragraph (2)(B) is episodic in nature or for a 1-day period;*

*(B) where the cost to the entity of complying with this subsection is prohibitive;*

*(C) where the entity is not authorized, or is otherwise unable, under State law, to access the national criminal history background check system of the Federal Bureau of Investigation;*

*(D) where the entity is not authorized, or is otherwise unable, under Federal law, to access the national criminal history background check system of the Federal Bureau of Investigation; or*

*(E) to which the Corporation otherwise provides an exemption from this subsection for good cause.*

*(Pub. L. 101–610, title I, §189D, as added and amended Pub. L. 111–13, title I, §§1612, 1614(a), Apr. 21, 2009, 123 Stat. 1540, 1541.)*

REFERENCES IN TEXT

*The Adam Walsh Child Protection and Safety Act of 2006, referred to in subsecs. (b)(1), (c)(3), and (d)(1)(A), is Pub. L. 109–248, July 27, 2006, 120 Stat. 587, which enacted chapter 151 (§16901 et seq.) of this title and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 16901 of this title and Tables.*

AMENDMENTS

*2009—Pub. L. 111–13, §1614(a), added subsec. (d).*

EFFECTIVE DATE

*Enactment and amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.*

**Subpart B—Requirements Directly Affecting the Selection and Treatment of Participants**  
**§ 2540.200 What does “you” mean in this section?** As used in this section, “you” means a Corporation grantee or other entity subject to Corporation grant provisions. Unless the context otherwise requires, this includes, but is not limited to, recipients of federal financial assistance under grant programs defined in § 2510.20 of this chapter as well as projects under the Senior Companion Program, the Foster Grandparent Program, and RSVP.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?** You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?** In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual—(a) Refuses to consent to a criminal history check described in § 2540.203 of this chapter;(b) Makes a false statement in connection with a criminal history check described in § 2540.203 of this chapter;(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?** (a) *Search procedure for individuals in covered positions*

*who do not have recurring access to vulnerable populations.* Unless the Corporation approves an alternative search procedure under § 2540.207 of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:(1) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW), and(2) Either:(i) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; or(ii) Submission of fingerprints through a state central record repository for a fingerprint-based Federal Bureau of Investigation (FBI) national criminal history background check.(b) Search procedure for *individuals in covered positions who have recurring access to vulnerable populations.* (1) This rule applies to individuals who:(i) Begin working for, or who start service with, you on or after April 21, 2011;(ii) Will be 18 years old or older at any time during their term of service; and(iii) Serve in a covered position that will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.(2) Unless the Corporation approves an alternative search procedure or an exception under § 2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW);(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; and(iii) Submission of fingerprints through a state central record repository for a fingerprint-based FBI national criminal history background check.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?** (a) *Timing of the National Service Criminal History Check Components.* (1) You must conduct and review the results of the nationwide NSOPW check required under § 2540.203 before an individual in a covered position begins work or starts service.(2) You must initiate state registry or FBI criminal history checks required under § 2540.203 before an individual in a covered position begins work or starts service. You may permit an individual in a covered position to begin work or start service pending the receipt of results from state registry or FBI criminal history checks as long as the individual is not permitted access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities, without being in the physical presence of an appropriate individual, as described in § 2540.205(g) of this chapter.(b) *Consecutive terms.* If an individual serves consecutive terms of service in a covered position and does not have a break in service that exceeds 120 days, then no additional National Service Criminal History Check is required, as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service. If your program or project is designed with breaks in service over 120 days, but less than 180 days between consecutive terms, you may request approval for a break in service of up to 180 days before a new National Service Criminal History Check is required. Your request must describe the overall program design, explain why the longer period is reasonable, and demonstrate that you have established adequate risk management controls for the extended break in service.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?** You are responsible for following these procedures:(a) Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;(b) Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's National Service Criminal History Check component results, if any;(d) Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the Civil Rights Act of 1964 (and the Corporation's implementing regulations under Title VI);(e) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;(f) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and(g) Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years

or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:(1) Your authorized representative who has previously been cleared for such access;(2) A family member or legal guardian of the vulnerable individual; or(3) An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.(h) Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.

[77 FR 60932, Oct. 5, 2012]

**§ 2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?** You must:(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual's government-issued photo identification card, and that you conducted the required checks for the covered position; and(b) Maintain the results, or a results summary issued by a State or Federal government body, of the NSOPW check and the other components of each National Service Criminal History Check, unless precluded from doing so by State or Federal law or regulation. You must also document in writing that an authorized grantee representative considered the results of the National Service Criminal History Check in selecting the individual.

[77 FR 60933, Oct. 5, 2012]

**§ 2540.207 When may I follow an alternative search procedure or be exempted from a requirement in conducting a National Service Criminal History Check for a covered position?** (a) *Alternative search procedure.* (1) If you submit a written request to the Corporation's Office of Grants Management, the Corporation will consider approving an alternative search procedure:(i) If you demonstrate that you are prohibited or otherwise precluded under state law from complying with a Corporation requirement relating to the National Service Criminal History Check, or(ii) If you can obtain substantially equivalent or better information through an alternative search procedure.(2) The Office of Grants Management will review the alternative search procedure to ensure that it:(i) Verifies the identity of the individual; and(ii) Includes a search of an alternative criminal database that is sufficient to identify the existence or absence of criminal offenses.(b) *Exceptions to Criminal History Check requirements for individuals with recurring access to vulnerable populations.* (1) *Exception that does not require prior Corporation approval—Episodic Access.* (i) For the purposes of this section, an individual's access to a vulnerable population is considered to be episodic in nature if the service is not a regular, scheduled, and anticipated component of the individual's position description.(ii) You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in § 2540.203 of this chapter, when the individual's access to a vulnerable population is episodic in nature or for a 1-day period.(iii) No prior approval is required from the Corporation for you to apply this exception. You must make and document a determination that the individual's access to vulnerable populations is episodic, as defined by paragraphs (b)(1)(i) and (ii) of this section.(2) *Exceptions that require prior approval of the Corporation.* You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in § 2540.203 of this chapter, if you demonstrate and the Corporation determines in writing that:(i) Complying with § 2540.203(b)(2)(iii) of this chapter is cost-prohibitive;(ii) You are not authorized, or are otherwise unable, under state or federal law, to access the national criminal history background check system of the FBI; or(iii) That you are exempt from the requirement in § 2540.203(b)(2)(iii) of this chapter for good cause.

[77 FR 60933, Oct. 5, 2012]

**§ 2540.208 Under what circumstances may participants be engaged?** A State may not engage a participant to serve in any program that receives Corporation assistance unless and until amounts have been appropriated under section 501 of the Act (42 U.S.C. 12681) for the provision of AmeriCorps educational awards and for the payment of other necessary expenses and costs associated with such participant.

[59 FR 13808, Mar. 23, 1994. Redesignated at 72 FR 48582, Aug. 24, 2007]

**§ 2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?** (a) An individual with responsibility for the operation of a project that receives Corporation assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.(b) Any Corporation assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).(c) An individual with responsibility for the operation of a project that receives Corporation assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with Corporation funds. This provision does not apply to the employment (with Corporation assistance) of any staff member of a Corporation-supported project who was employed with the organization operating the project on the date the Corporation grant was awarded.(d) Grantees must notify all program participants, staff, applicants, and beneficiaries of:(1) Their rights under applicable federal nondiscrimination laws, including relevant provisions of the national service legislation and implementing regulations; and(2) The procedure for filing a discrimination complaint with the Corporation's Office of Civil Rights and Inclusiveness.

[59 FR 13808, Mar. 23, 1994, as amended at 73 FR 53760, Sept. 17, 2008]

**§ 2540.215 What should a program participant, staff members, or beneficiary do if the individual believes he or she has been subject to illegal discrimination?** A program participant, staff member, or beneficiary who believes that he or she has been subject to illegal discrimination should contact the Corporation's Office of Civil Rights and Inclusiveness, which offers an impartial discrimination complaint resolution process. Participation in a discrimination complaint resolution process is protected activity; a grantee is prohibited from retaliating against an individual for making a complaint or participating in any manner in an investigation, proceeding, or hearing.

[73 FR 53760, Sept. 17, 2008]

**§ 2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?** (a) *Participants in State, local, or private nonprofits programs.* A participant in a State, local, or private nonprofit program receiving support from the Corporation is considered an eligible employee of the program's project sponsor under the Family and Medical Leave Act of 1993 (29 CFR part 825) if—(1) The participant has served for at least 12 months and 1,250 hours during the year preceding the start of the leave; and(2) The program's project sponsors engages in commerce or any industry or activity affecting commerce, and employs at least 50 employees for each working day during 20 or more calendar workweeks in the current or preceding calendar year.(b) *Participants in Federal programs.* Participants in Federal programs operated by the Corporation or by another Federal agency will be considered Federal employees for the purposes of the Family and Medical Leave Act if the participants have completed 12 months of service and the project sponsor is an employing agency as defined in 5 U.S.C 6381 *et seq.*; such participants therefore will be eligible for the same family and medical leave benefits afforded to such Federal employees.(c) *General terms and conditions.* Participants that qualify as eligible employees under paragraphs (a) or (b) of this section are entitled to take up to 12 weeks of unpaid leave during a 12 month period for any of the following reasons (in the cases of both paragraphs (c)(1) and (2) of this section the entitlement to leave expires 12 months after the birth or placement of such child): (1) The birth of a child to a participant;(2) The placement of a child with a participant for adoption or foster care;(3) The serious illness of a participant's spouse, child or parent; or(4) A participant's serious health condition that makes that participant unable to perform his or her essential service duties (a serious health condition is an illness or condition that requires either inpatient care or continuing treatment by a health care provider).(d) *Intermittent leave or reduced service.* The program, serving as the project sponsor, may allow a participant to take intermittent leave or reduce his or her service hours due to the birth of or placement of a child for adoption or foster care. The participant may also take leave to care for a seriously ill immediate family member or may take leave due to his or her own serious illness whenever it is medically necessary.(e) *Alternate placement.* If a participant requests intermittent leave or a reduced service hours due to a serious illness or a family member's sickness, and the need for leave is foreseeable based on planned medical treatment, the program, or project sponsor may



temporarily transfer the participant to an alternative service position if the participant: (1) Is qualified for the position; and(2) Receives the same benefits such as stipend or living allowance and the position better accommodates the participants recurring periods of leave.(f) *Certification of cause*. A program, or project sponsor may require that the participant support a leave request with a certification from the health care provider of the participant or the participant's family member. If a program sponsor requests a certification, the participant must provide it in a timely manner.(g) *Continuance of coverage*. (1) If a State, local or private program provides for health insurance for the full-time participant, the sponsor must continue to provide comparable health coverage at the same level and conditions that coverage would have been provided for the duration of the participant's leave.(2) If the Federal program provides health insurance coverage for the full-time participant, the sponsor must also continue to provide the same health care coverage for the duration of the participant's leave.(h) *Failure to return*. If the participant fails to return to the program at the end of leave for any reason other than continuation, recurrence or onset of a serious health condition or other circumstances beyond his or her control, the program may recover the premium that he or she paid during any period of unpaid leave.(i) *Applicability to term of service*. Any absence, due to family and medical leave, will not be counted towards the participant's term of service

**.§ 2540.230 What grievance procedures must recipients of Corporation assistance establish?** State and local applicants that receive assistance from the Corporation must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation. A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the Corporation's inspector general.(a) *Alternative dispute resolution*. (1) The aggrieved party may seek resolution through alternative means of dispute resolution such as mediation or facilitation. Dispute resolution proceedings must be initiated within 45 calendar days from the date of the alleged occurrence. At the initial session of the dispute resolution proceedings, the party must be advised in writing of his or her right to file a grievance and right to arbitration. If the matter is resolved, and a written agreement is reached, the party will agree to forego filing a grievance in the matter under consideration.(2) If mediation, facilitation, or other dispute resolution processes are selected, the process must be aided by a neutral party who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the matter through a mutually achieved and acceptable written agreement. The neutral party may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence will not apply. With the exception of a written and agreed upon dispute resolution agreement, the proceeding must be confidential.(b) *Grievance procedure for unresolved complaints*. If the matter is not resolved within 30 calendar days from the date the informal dispute resolution process began, the neutral party must again inform the aggrieving party of his or her right to file a formal grievance. In the event an aggrieving party files a grievance, the neutral may not participate in the formal complaint process. In addition, no communication or proceedings of the informal dispute resolution process may be referred to or introduced into evidence at the grievance and arbitration hearing. Any decision by the neutral party is advisory and is not binding unless both parties agree.(c) *Time limitations*. Except for a grievance that alleges fraud or criminal activity, a grievance must be made no later than one year after the date of the alleged occurrence. If a hearing is held on a grievance, it must be conducted no later than 30 calendar days after the filing of such grievance. A decision on any such grievance must be made no later than 60 calendar days after the filing of the grievance.(d) *Arbitration*—(1) *Arbitrator*—(i) *Joint selection by parties*. If there is an adverse decision against the party who filed the grievance, or 60 calendar days after the filing of a grievance no decision has been reached, the filing party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.(ii) *Appointment by Corporation*. If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, the Corporations Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.(2) *Time Limits*—(i) *Proceedings*. An arbitration proceeding must be held no later than 45 calendar days after the request for arbitration, or, if the arbitrator is appointed by the Chief Executive Officer, the proceeding must occur no later than 30 calendar days after the arbitrator's appointment.(ii) *Decision*. A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins.(3) *The cost*. The cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If, however, a participant, labor organization, or other interested individual prevails under a binding arbitration proceeding, the State or local applicant that is a party to the grievance must pay the total cost of the

proceeding and the attorney's fees of the prevailing party.(e) *Suspension of placement*. If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement must not be made unless the placement is consistent with the resolution of the grievance.(f) *Remedies*. Remedies for a grievance filed under a procedure established by a recipient of Corporation assistance may include—(1) Prohibition of a placement of a participant; and(2) In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of Corporation assistance—(i) Reinstatement of the employee to the position he or she held prior to the displacement;(ii) Payment of lost wages and benefits;(iii) Re-establishment of other relevant terms, conditions and privileges of employment; and(iv) Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.(g) *Suspension or termination of assistance*. The Corporation may suspend or terminate payments for assistance under this chapter.(h) *Effect of noncompliance with arbitration*. A suit to enforce arbitration awards may be brought in any Federal district court having jurisdiction over the parties without regard to the amount in controversy or the parties' citizenship.

# FBI Noncriminal Justice Applicant's Privacy Rights

## NONCRIMINAL JUSTICE APPLICANT'S PRIVACY RIGHTS

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for employment or a license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below. All notices must be provided to you in writing.<sup>[1]</sup> These obligations are pursuant to the Privacy Act of 1974, Title 5, United States Code (U.S.C.) Section 552a, and Title 28 Code of Federal Regulations (CFR), 50.12, among other authorities.

- You must be provided an adequate written FBI Privacy Act Statement (dated 2013 or later) when you submit your fingerprints and associated personal information. This Privacy Act Statement must explain the authority for collecting your fingerprints and associated information and whether your fingerprints and associated information will be searched, shared, or retained. <sup>[2]</sup>
- You must be advised in writing of the procedures for obtaining a change, correction, or update of your FBI criminal history record as set forth at 28 CFR 16.34.
- You must be provided the opportunity to complete or challenge the accuracy of the information in your FBI criminal history record (if you have such a record).
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the employment, license, or other benefit based on information in the FBI criminal history record.
- If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <https://www.fbi.gov/services/cjis/identity-history-summarychecks> and <https://www.edo.cjis.gov>.
- If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI by submitting a request via <https://www.edo.cjis.gov>. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)
- You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.<sup>[3]</sup>

[1] Written notification includes electronic notification, but excludes oral notification.

[2] <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>

[3] See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 34 U.S.C. § 40316 (formerly cited as 42 U.S.C. § 14616), Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

## NSCHC) Documentation Checklist Appendix B

1.	Name of Individual (in covered position)	
2.	Employment Start Date	
3.	Did a returning individual have a break in service exceeding 180 days?	<input type="checkbox"/> Yes (must run new search) <input type="checkbox"/> No (Previous search results are still valid)

### Verification of Identity

Checks must be conducted on the first and last name as it appears on the government-issued photo ID.

- Copy/Review of government-issued photo ID in personnel file *and/or*
- On file in Truescreen/Fieldprint

Written Consent (and candidate's understanding that their position is contingent on eligibility determined by the NSCHC results)

- Retained in the personnel file *and/or*
- Retained in the Truescreen/Fieldprint

**NSOPW Check:** *must be completed and adjudicated before start date*

**Date Adjudicated:**

**State of Service Check (if different from State of residence):** *must be completed and adjudicated before start date*

**Date Adjudicated:**

**State of Residence Check:** *must be completed and adjudicated before start date*

**Date Adjudicated:**

- N/A (at the time of application, the individual physically resided in NY and did not require out-of-state check)

**FBI Check:** *must be completed and adjudicated before start date*

**Date Adjudicated:**

### Consideration/Confirmation vendor determination of results

- I have reviewed and considered the results of these checks and certify that this individual is eligible for work or service.

Please remember to submit a copy of this document to: [orsp@oswego.edu](mailto:orsp@oswego.edu)

---

Project Director Signature

Date

April 2024

## Checklist Notes Appendix C

**Checklist Notes** are intended to complement the annual NSCHC training requirements, the CNCS NSCHC Manual (updated 4/19/24 as of the 5/2/2024 writing of this policy version), Truescreen/Fieldprint training materials, and the AmeriCorps guidelines. Please visit: <https://americorps.gov/grantees-sponsors/history-check> to read all of the aforementioned materials and refer back to them as needed.

This policy is not a full list of instructions or requirements for compliant NSCHC. Please consult ORSP or the Project Director with any questions.

### Verification of Identity

- It is important that programs are reviewing government-issued photo ID prior to initiating checks to verify exact name and correct spelling, including any hyphens or characters, are used.

### Truescreen

- All Truescreen checks must be completed **before** the first day of work/service. Do not rely on a timestamp. Before means (at minimum) the day before.
- Be sure to always pick NSOPW+NEW YORK from the drop-down menu when ordering checks.
- If out of state is required for state of residence, type that state into the request box.
- Always review the CNCS Truescreen ASP and CNCS state by state chart to determine if a state check is unavailable/waived by CNCS.  
[https://americorps.gov/sites/default/files/document/2022\\_05\\_13\\_NSCHCManual\\_OM.pdf](https://americorps.gov/sites/default/files/document/2022_05_13_NSCHCManual_OM.pdf)
- Completed checks include two parts in Truescreen:
  - ID verification in the system – review and confirm
  - Adjudication in the system – review and confirm
- Use the CNCS Monitoring Tool function to quickly assess if the ID was reviewed and adjudication completed, these dates must be **before** the first day of work/services
- Retention: Truescreen retains records for 7 years. Programs are responsible for keeping grant records with the associated grant year.

### Fieldprint

- FBI check must be completed **before** the first day of work/service. Do not rely on a timestamp. Before means (at minimum) the day before.
- Completed checks include two parts for Fieldprint:
  - Clear or Not Clear status in the system
  - Adjudication outside the system – document review (this is most easily completed by signing and dating a download of the results, or having a formal system in place to document results were received and reviewed)
- If an individual receives a “not clear” status, the program must take additional steps to verify eligibility and finalize adjudication. Consult with the Project Director if you are unsure of those additional steps and documentation needed.
- Retention: Programs should not rely on the vendor to retain adequate documentation. The AmeriCorps retention requirement is 7 years. Programs are responsible for keeping grant records with the associated grant year. Please remember to download and retain Fieldprint and Truescreen documentation.

## Organizational/Program Policy & Procedure

In addition, RFSUNY requires all programs to have a detailed policy and procedure on file outlining how to ensure NSCHCs are completed and adjudicated on time, every time. Failure to complete NSCHCs on time, every time may result in cost disallowances. For more information on NSCHCs: <https://americorps.gov/grantees-sponsors/history-check>



The Research Foundation for  
The State University of New York

The original signature on this form is to be retained in a confidential file in RFSUNY as the Office of Audit.

## National Service Criminal History Check (NSCHC) Consent Form Appendix D

Any AmeriCorps member who receives a Corporation grant-funded living allowance, stipend, education award, or salary is considered to be in a “covered” position and must undergo a NSCHC. This check may include any or all of the following:

- A nationwide name-based check of the National Sex Offender Public Website (NSOPW)
- A name or fingerprint based state criminal registry search in the member’s state of service as well as state of residence upon application\*
- A fingerprint-based FBI check

1) By signing below, I hereby authorize The Research Foundation for SUNY to conduct a national service criminal history check on me as described above. I am aware that my identity must be verified with a government-issued photo ID. I understand that selection into the program/hiring/continued service by the program is contingent upon the review of my national service criminal history check results. The sole purpose of the NSCHC will be to determine if I am clear for work or service in an AmeriCorps funded program. A review and adjudication of the search results will be based upon the situations identified under 12645.g under Criminal History Checks (c) Ineligibility.

2) I also understand that I will be given an opportunity to review and challenge the factual accuracy of a result before action is taken to exclude me from the program or from this grant-funded position. I understand that any information relating to the NSCHC will be considered to be confidential and will only be shared with authorized Research Foundation for SUNY staff, the Corporation for National and Community Service and any other organizational personnel as appropriate with a need to know. Should I wish to comment, correct or update any finding identified during this search process, I can request the opportunity to do so on-line by checking the box marked challenging the grantee ‘s adjudication (2540.230)

3) To use this service, I certify under penalty of law, that I am the same person who is being fingerprinted, who is reviewing all of the applicable notices and completing the applicable forms. It is strictly prohibited for anyone else to proceed further except the person who is being fingerprinted, unless you have written approval for special circumstances, such as a disability, from Fieldprint, Inc. or the requesting organization/agency.

4) Based upon the definition below, I declare:

My state of service is: \_\_\_\_\_

My state of residence is: \_\_\_\_\_

I acknowledge that I have read, understand, and agree to the above Statements.

Applicant Name

Applicant Signature

Date

**\*State of Residence** is defined as the location I resided at the moment in time I applied to serve in AmeriCorps. For college students: an individual applying to serve or work who is enrolled as a full-time college student is deemed to be residing in the state where they live for the purpose of attending school, without regards to whether or not that home is on or off campus, and whether or not that home is in the same state as the college is located. Programs may NOT opt to use any other basis for identifying the student's state of residence, such as the student's family home.





# National Service Criminal History Check (NSCHC) Manual

Effective May 1, 2021

(Updated April 19, 2024)

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## Change Log

This table lists all the changes made in the most recent revision of this document. See Previous Change Logs, found on <https://americorps.gov/grantees-sponsors/history-check>, for a full list of changes.

#	Date	Section and Page #	Change
16	5/1/21	Throughout	Links updated to reflect new site: <a href="https://americorps.gov/grantees-sponsors/history-check">https://americorps.gov/grantees-sponsors/history-check</a>
17	5/13/21	Throughout	Previous Change log moved to external document
18	5/13/21	Throughout	Links updated to reflect regulations: <a href="https://ecfr.federalregister.gov/current/title-45/subtitle-B/chapter-XXV/part-2540/subpart-B">https://ecfr.federalregister.gov/current/title-45/subtitle-B/chapter-XXV/part-2540/subpart-B</a>
19	6/29/21	Appendix A: National Fingerprint File States Pre-Approved Waiver	NFF Pre-approved waiver was updated to reflect that Vermont participates in the NFF.
20	8/31/21	Appendix A: National Fingerprint File States Pre-Approved Waiver	NFF Pre-approved waiver was updated to reflect that Connecticut participates in the NFF.
21	10/15/21	Appendix A: National Fingerprint File States Pre-Approved Waiver	NFF Pre-approved waiver was updated to reflect that Michigan participates in the NFF.
22	1/26/22	NSCHC Check Components	Incorporated guidance on unreadable fingerprints and possibility of name-based FBI checks.
23	1/26/22	NSCHC Waiver	Clarified NSCHC waivers, including examples of waiver parameters.
24	1/26/22	Monitoring and Enforcement	Section renamed from Enforcement.  Identification of Noncompliance subsection moved up from Guide to Enforcement Actions and Remedies section and renamed Monitoring for Compliance. Clarified parameters for expansion of scope.
25	1/26/22	Administrative Remedies and Enforcement for Noncompliance	Cost-based disallowance: added reference to Awardee Guide NSCHC Enforcement of Cost-Based Disallowance for further guidance on cost-based disallowance.  Clarified that disallowed costs are based on actual expenditures.  Required Use of AmeriCorps Approved Contract with Truescreen and Fieldprint subsection moved

			up from Other Administrative Remedies table. Clarified vendor requirement in most cases.
26	1/26/22	Guide to Enforcement Actions and Remedies	Clarified expectation of prime grantees to implement cost-based disallowance for NSCHC noncompliance of subrecipients.  Nature of Noncompliance table: reordered enforcement actions to reflect level of escalation. Clarified possibility of rechecks in vendors, as applicable.
27	1/26/22	Appendix A: Use of Truescreen for NSOPW and/or State Checks	Use of Truescreen Pre-approved waiver was updated to include New Hampshire.
28	5/13/22	Appendix A: National Fingerprint File States Pre-Approved Waiver	NFF Pre-approved waiver was updated to reflect that Utah participates in the NFF.
29	4/19/24	Appendix A: National Fingerprint File States Pre-Approved Waiver	NFF Pre-approved waiver was updated to reflect that Arizona and Delaware participate in the NFF.

## National Service Criminal History Checks (NSCHC)

The NSCHC is a screening procedure established by law to protect the beneficiaries of national service. NSCHCs have three components:

- A nationwide name-based check of the National Sex Offender Public Website (NSOPW). The NSOPW (<https://www.nsopw.gov/>) is a centralized system that identifies people who are registered as sex offenders in states, territories, and with many federally recognized Tribes,
- A name- or fingerprint-based search of the statewide criminal history registry in the candidate's state of residence and in the state where the person will serve or work, and
- A fingerprint-based FBI check

NSCHC requirements are baseline screening procedures. Organizations should institute a holistic framework for safeguarding beneficiaries of service.

Safeguarding beneficiaries involves more than screening for criminal history. It includes taking additional actions to ensure the health and safety of beneficiaries, such as having clear guidelines on interactions between individuals, policies, and procedures on appropriate behavior and how to respond to noncompliance with those policies.

## Grant Recipients or Subrecipients Required to Comply with NSCHC

Organizations that receive one of the following grants, as a recipient or subrecipient, must conduct NSCHCs:

- Operational grants provided by AmeriCorps State and National
- Foster Grandparent Program Grants
- Retired Senior Volunteer Program Grants
- Senior Companion Program Grants
- Senior Demonstration Program Grants that receive funding from AmeriCorps
- Martin Luther King, Jr. Day of Service Grants
- September 11<sup>th</sup> Day of Service Grants
- Social Innovation Fund Grants
- Volunteer Generation Fund Grants
- AmeriCorps VISTA Program Grants
- AmeriCorps VISTA Support Grants

All grant program provisions, laws and regulations, including the requirement to perform the NSCHC, applies to any subrecipients or of grant recipients identified in the aforementioned list. This requirement applies no matter how large or small the dollar amount of the sub-award, or whether the costs are covered by AmeriCorps federal funds or, in the case of cost-reimbursement grants, non-federal matching funds.

## Individuals Required to Comply with NSCHC

The following individuals, who serve or work under a grant subject to NSCHC requirements, must have an NSCHC:

- AmeriCorps members serving in State and National programs
- AmeriCorps Seniors volunteers serving in the Foster Grandparent program who receive a stipend
- AmeriCorps Seniors volunteers serving in the Senior Companion program who receive a stipend
- Individuals in positions in which they will receive a salary, directly or reflected as match, under a cost reimbursement grant

## Individuals Exempt from NSCHC

The following individuals are exempt from NSCHC:

- Individuals who are under the age of 18 on the first day of work or service who serve on an NSCHC required grant.
- Individuals whose activity is entirely included in the grant recipient's indirect cost rate or cost allocation plan.

AmeriCorps Seniors volunteers serving in the RSVP program and AmeriCorps members serving in the VISTA program are not required to comply with NSCHC. AmeriCorps members serving in the VISTA program will undergo a separate criminal history check process managed by the AmeriCorps VISTA program. Grant recipients may choose to conduct criminal history checks on AmeriCorps Seniors volunteers serving in the RSVP program.

**Contractors:** In most cases, contractors are not covered by NSCHC.

AmeriCorps applies the NSCHC requirements based on the legal distinctions between subawards (also known as subgrants) and contracts as defined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. See [2 C.F.R. § 200.2](#). Organizations may colloquially refer to subawards as contracts.

However, the two are legally distinct and the NSCHC requirements apply to subawards, not contracts. Guidance on how to determine whether you have entered into a subaward or a contract with another entity is available at [2 C.F.R. § 200.331](#), "Subrecipient and contractor determinations."

*Subaward:* The NSCHC requirement does apply to individuals who work or serve under subawards, as defined under [2 C.F.R. § 200.2](#). This is because subrecipients are responsible for adherence to applicable Federal requirements specified in the original federal award, as stated in [2 C.F.R. § 200.331\(a\)\(4\)](#).

*Contractor:* The NSCHC requirement does not apply to individuals who provide services under a contract, as defined under [2 C.F.R. § 200.2](#). If your organization enters into a contract with an entity to provide services, the NSCHC requirements do not apply to the contractor because payments made by your organization to the contractor are not grant-funded living allowances, stipends, or salaries.

If the services for which you contracted involve ongoing contact between contractor personnel and service beneficiaries, then even though the specific requirements of the NSCHC do not apply to those contract personnel. AmeriCorps strongly recommends that your organization use prudent and reasonable screening procedures of contractor personnel to protect service beneficiaries from the risk of harm. You may obtain free and

immediate results of a sex offender search through <https://www.nsopw.gov/>. The costs of additional screening for contractors with ongoing contact with service beneficiaries are allowable grant costs.

Please note that this guidance only clarifies existing rules related to the NSCHC. It does not authorize or change a recipient's ability to subaward or contract. By regulation, AmeriCorps Seniors recipients are prohibited from making subawards or from contracting out project management requirements necessary to accomplish the purposes of the grant, as described in 45 C.F.R. [§ 2551.22](#), [2552.22](#), and [2553.22](#). Social Innovation Fund subrecipients may not make further subawards.

## Individuals Deemed Ineligible Due to NSCHC

Under the regulation and statute, an individual is ineligible to serve or work on an AmeriCorps grant if they:

- refuse to consent to NSCHC;
- make a false statement in connection with NSCHC;
- is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or
- has been convicted of murder, as defined in [18 U.S.C. 1111](#).

Grant recipients must maintain adequate documentation that the individual has consented to NSCHC and understands that selection into the program is contingent upon the organizations' review of the individuals NSCHC component results, if any. An organization's policy should describe actions required to inform an individual of their rights related to NSCHC, as well as privacy practices to ensure confidentiality of any information related to NSCHC, consistent with the authorization provided by the applicant.

If the applicant is found to be ineligible because of NSCHC component results, grant recipients must provide a reasonable opportunity for the individual to review and challenge the factual accuracy of the results before action is taken to exclude the individual from the position.

### Suitability

Suitability is determined by the grant recipients and subrecipients, or service sites. An individual may be eligible to work or serve in a position under the NSCHC regulation, but a grant recipient, subrecipient, or service site may determine that an individual is not suitable to work or serve in such a position based on criteria that the grant recipient or subrecipient or service site establishes.

The suitability criteria must be consistent with state and federal Civil Rights and nondiscrimination laws, including [Titles VI and VII of the Civil Rights Act of 1964](#) (and [AmeriCorps' implementing regulations under Title VI](#)). Additional screening criteria should be clearly described and adhered to within grant recipient and subrecipient or service site policy.

**Arrests vs. Convictions:** The requirements do not disqualify applicants on the basis of arrest. In certain states, there are legal constraints on how an arrest record may be considered, and some statewide criminal repositories do not include arrest information in the records they release. Recipients should recognize that they have a dual status under the Civil Rights Act of 1964, depending on the nature of their relationship with a candidate.

Grant recipients, because they get federal financial assistance, must comply with the Civil Rights Act of 1964 and its implementing regulation. These regulations prohibit discrimination, including selection and placement of volunteers and members, on the basis of race, color, and national origin, in AmeriCorps-funded programs and activities. And as employers, recipients must also comply with [VII of the Civil Rights Act of 1964](#), which prohibits discrimination in employment decisions. The Equal Employment Opportunity Commission (EEOC) has issued [guidance](#) explaining when consideration of arrest and conviction records violates Title VII. In addition, grant recipients must comply with the nondiscrimination provisions of the NCSA and the regulations at [45 CFR §2540.210](#).

As the EEOC guidance outlines, recipients should be mindful that arrests alone are mere allegations, and that actual criminal convictions, or actual evidence of conduct underlying an arrest, are the relevant indicators of a person's suitability, or in some cases, eligibility, to serve with, or work for, an AmeriCorps grant recipient. Recipients should make sure that their screening practices are narrowly tailored in a manner that complies with these federal nondiscrimination requirements, in addition to applicable state laws governing the consideration of criminal history records.

**Non-disqualifying Convictions:** If the NSCHC returns results other than those above, the recipient has the discretion – subject to any federal civil rights law and state law requirements – to decide if the results of a criminal history background check disqualify a candidate from service. Recipients should consider the factors set forth in the [EEOC's guidance under Title VII](#), including the nature and gravity of the offense, the time that has passed since the conviction or completion of the sentence, and the nature of the position. Recipients should have written policies on their disqualification criteria and be consistent in how those criteria are applied.

Additionally, organizations must use national service criminal history check results in combination with other information obtained through the grant recipient's selection process to make an informed choice before selecting an individual for work or service. Recipients should maintain documentation of the evidence used in making suitability determinations for individuals with non-disqualifying convictions.



Grant recipients should be aware of federal reentry policy, which aims, among other goals, to reduce post prison barriers to employment. Participation in national service programs funded by AmeriCorps could help people who have been in prison successfully re-enter society. Therefore, we encourage agencies to minimize barriers to service – without putting their program beneficiaries at genuine risk – for former prisoners who are eligible under the law.

## False statements under NSCHC

A false statement in connection with NSCHC is made when an individual intentionally provides false information required to conduct national service criminal history check components found at section [45 CFR §2540.205](#). This would arise when an individual intentionally provides the following to conduct the components of the NSCHC:

- A false name,
- A government-issued identification belonging to another person,
- A false identification, or
- Fingerprints of another individual.

The intentionally false statements, as listed above regarding information required to conduct NSCHC components found at [42 USC 12645g\(b\)](#), render an individual ineligible to serve under [42 USC 12645g\(c\)](#).

As reminder, suitability criteria independent of the NSCHC ineligibility criteria may be established by recipients and subrecipients or service sites, subject to any federal civil rights law and state law requirements.

**Considerations Around Grantee-mandated Disqualification Determinations:** In cases where individuals provide false information requested for a grantee-mandated disqualification determination, grant recipients have discretion in how to deal with the situation, again consistent with federal civil rights law and state law requirements. Grantee-mandated disqualification determinations, and false statements related to such determinations, have no effect on an individual's eligibility under the statute.

## NSCHC Check Components

NSCHC check components include three distinct components:

- a nationwide check of the National Sex Offender Public website through [www.NSOPW.gov](http://www.NSOPW.gov);
- a check of the state criminal history record repository or agency-designated alternative for the individual's state of residence and state of service; and

- a fingerprint-based check<sup>1</sup> of the FBI criminal history record database through the state criminal history record repository or agency-approved vendor.

## State of Residence

NSCHC regulations require organizations to search (by name or fingerprint) the state criminal history record repository.

The state where a candidate “resides” is the location the individual identifies as their place of residence at the moment in time they applied to serve or work.

There is no measure of how long the individual has resided at a location that a program is required to validate to establish the correct state of residence – even a single day as a resident would meet the test for where an individual has made a home.

**College Students:** For the purpose of AmeriCorps requirements, an individual applying to serve or work who is enrolled as a full-time college student is deemed to be residing in the state where they live for the purpose of attending the school without regards to whether or not that home is on- or off-campus, and whether or not that home is in the same state as the college is located.

The state to check does not change because a student is on semester or summer breaks or temporarily residing elsewhere. There is no test needed to measure duration of residence while attending school.

Programs may not opt to use any other basis for identifying the student's state of residence, e.g., such as the student's family home.

**Foreign Residents:** For those living abroad, the individual's last state of residence in the United States, as well as the state where the program operates, must be checked. If the individual never lived in the United States, then only the state where they will be serving is required to be checked. Programs are also strongly encouraged to perform additional checks, including making contact with appropriate sources in other countries, whenever possible.

**Documentation:** While AmeriCorps does not dictate specifics with regard to documentation for establishing state of residence, programs must ensure that the totality of information is accurate and logical. For example, when a government-issued ID address does not match the indicated state of residence address, programs should document the reason for the variance. Programs should have clear, written policies and

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<sup>1</sup> It is possible for FBI checks to be conducted as name-based checks in certain circumstances. See Unreadable Fingerprints for FBI Checks, below.

procedures establishing protocol for discerning state of residence for all covered individuals.

## Unreadable Fingerprints for FBI Checks

The required FBI check is a fingerprint-based check. However, it is possible that an individual's fingerprints may be unreadable and rejected by the check source.

If using the state criminal history repository to conduct the FBI check, grantees should follow the repository's protocols for handling rejected fingerprints. This may consist of conducting a name-based check of FBI records. Grantees must maintain documentation of the attempts to obtain the check, the rejection notifications, any state repository protocol guidance regarding unreadable fingerprints, and, if applicable, documentation that a name-based FBI check was conducted with the individual's other NSCHC files as grant records.

If using Fieldprint to conduct the FBI check, Fieldprint will automatically initiate a name-based check with the FBI after two separate sets of fingerprints are rejected. Grantees should maintain documentation of the rejection notification and name-based search (listed in the case's activity log in Fieldprint) with the individual's other NSCHC files as grant records.

Regardless of the source used, if the unreadable fingerprints necessitate the FBI check be name-based, the Name-based Checks guidance applies as described below.

## Conducting the NSCHC

NSCHCs can be conducted in the following ways:

**NSOPW checks:** Use the agency approved vendor (Truescreen) or go directly to [www.NSOPW.gov](http://www.NSOPW.gov).

**State of Residence and State of Service checks:** Use the agency approved vendor (Truescreen) or go directly to the appropriate state criminal history repository or AmeriCorps approved alternative statewide source.

**FBI checks:** Use the agency approved vendor (Fieldprint) or go directly to the appropriate state criminal history repository or AmeriCorps approved alternative statewide source. Please note: the FBI authorizes Fieldprint to conduct FBI checks only for those who are required to comply with NSCHC.

An organization's written procedures should specify the AmeriCorps approved sources to be used for conducting the required checks and the actions required to conduct the required checks using each approved source, including how to document adherence with NSCHC timing requirements. One way for grant recipients or subrecipients to obtain

and document the required components of the NSCHC is through the use of agency-approved vendors.

For information on how to conduct agency approved vendor checks see the [Using Fieldprint and Truescreen Manual under the How to Conduct NSCHC header.](#)

For information on how to conduct NSOPW/state repository checks see the [Using NSOPW and State Repositories Manual under the How to Conduct NSCHC header.](#)

## Name-based Checks

AmeriCorps expects that grant recipient staff will undertake reasonable due diligence to determine the current first and last name to conduct name-based checks. It is prudent, but not required, to check any other names that the person has used or is/was known by.

Use of the first name and last name reflected on the following sources is acceptable:

- First and last name reflected on a signed Employee's Withholding Certificate W-4 form
- First and last name reflected on a signed USCIS Employment Eligibility Verification I-9 form
- First and last name reflected on any document on the USCIS Form I-9's List of acceptable documents
- First and last name reflected on benefit or income documentation from SSA, including but not limited to Social Security Benefit statement, SSA-1099, Supplemental Security Income (SSI) documentation, Social Security Disability Insurance (SSDI) documentation

If the individual provides grant recipients with documents that reflect different names, the grant recipient should obtain additional information from the individual to determine the first and last name of the applicant that will obtain the most accurate criminal history records. The process to reconcile documentation reflecting different names to determine the first and last name to be used on a name-based check should be recorded in the grant recipients' policies and procedures and any additional documentation should be maintained as grant records.

## NSCHC Timing

The NSCHC must be conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient based on the results of the NSCHC no later than the day before a person begins to work or serve on a NSCHC-required grant.

Work or service hours include AmeriCorps funded orientation and training activities.

## Break in Service

If a person serves consecutive terms of service with the same organization and has a break in service longer than 180 calendar days, then an additional NSCHC is required. A break in service means that a person is no longer providing service through or receiving salary from a recipient or subrecipient. Temporary interruption of work or service without termination of employment or expiration of the agreement under which service is being provided is not a break in service.

It is not necessary to redo the NSCHC for individuals who serve consecutive terms of service with the same organization if the break in service or work is less than 180 calendar days and the original NSCHC checks are compliant.

However, if the person turns 18 before the start of the subsequent term of service, NSCHC is required prior to the individual beginning a subsequent term of work or service.

It is a best practice to document any break in service and retain that documentation as a grant record. For example, if an AmeriCorps Seniors volunteer who receives a stipend has run out of leave and is on leave without pay, the grant recipient should maintain documentation to show that the person is on leave status rather than terminated from the program.

## Changing National Service Programs

When someone leaves one national service grant program and begins serving or working in different grant program, the grant program receiving the employee or participant must conduct a new NSCHC, even if there has been no break in service.

However, if an individual moves from one position to another position within the same organization and there has not been a break in service that is longer than 180 calendar days, a recheck is not needed.

## NSCHC Documentation

The grant recipient must maintain adequate documentation of their NSCHC **process and practices** as well as documentation of individual NSCHC grant records.

- Evidence of adopted NSCHC Policies and Procedures
  - Describes how grant recipient will address all NSCHC requirements, including the AmeriCorps approved sources to be used for conducting NSCHC and practices for documenting adherence to NSCHC eligibility determination and timing requirements
  - Describes practices for protecting information related to NSCHC. Grant recipients must take reasonable steps to protect the confidentiality of any

information relating to the criminal history check, consistent with authorization provided by the applicant.

- Describes adopted procedures for informing individuals of their rights related to NSCHC and how NSCHC results will be used by the program
- Where applicable, describes process for monitoring NSCHC of sub-recipients and/or service locations
- Describes how notice is provided to an individual that selection into the program is contingent upon the organization's review of the individual's NSCHC component results, if any; and
- Describes how the program complies with the requirements to provide a reasonable opportunity for the individual to review and challenge the factual accuracy of the result before action is taken to exclude the candidate from the position
- Describes how the program ensures that any applicant seeking to serve or work in a position that requires NSCHC is not charged for the cost of any component of a NSCHC, unless specifically approved by AmeriCorps.
- Evidence of required annual staff training by retaining certificate of completion of the AmeriCorps e-course training
  - Ensure staff retake the course prior to expiration of the certificate. Retain certificates of completion from each year as grant records.

The grant recipient must maintain adequate documentation of their NSCHC process and practices as well as documentation of **individual NSCHC grant records**.

- Evidence that all required components (NSOPW, State(s), and FBI checks) were completed and on file ([45 CFR §2540.206](#))
  - All required components (NSOPW, State(s), and FBI) were conducted on time ([45 CFR §2540.205](#)) and documentation reflects evidence of when checks were reviewed (adjudicated) and considered when making an eligibility determination
- All required components ((NSOPW, State(s), and FBI checks) were conducted through sources authorized by AmeriCorps ([45 CFR §2540.204](#)) and are consistent with the sources described in the grant recipient's adopted NSCHC policies and procedures
- Evidence that NSOPW results include searches from all States, Territories, and Indian Tribes ([45 CFR §2540.204](#))
- Evidence that First and Last Names used on name-based checks reflect the current name of the individual
  - Documents used to determine an individual's first and last name must be consistent with sources described in the grant recipient's adopted NSCHC policies and procedures. [Refer to agency guidance on name-based checks.](#)
- Documentation of consent from the candidate to conduct State and FBI checks ([45 CFR §2540.206](#)) and of notice provided to the candidate that selection into the program is contingent upon the organization's review of the individual's NSCHC component results, if any ([45 CFR §2540.206](#));
- Documentation that the candidate is eligible to serve/work if a vendor returns a

“do not recommend” result for the candidate ([45 CFR §2540.206](#))

- NOTE: A vendor's adjudication recommendation not to "recommend" the candidate indicates that the selecting organization needs more information before it can make a final determination as to the fitness of the individual to work or serve. It does not mean that an individual is ineligible for work or service.
- Grant recipients must maintain adequate documentation of the process implemented to make an eligibility determination and may include a contemporaneously dated memo to the file documenting determination of the individual's eligibility.

Please note that many documentation requirements are obtained and maintained by agency approved vendors. More information on agency approved vendor usage can be found in the [Using Fieldprint and Truescreen Manual](#).

## NSCHC Grant Costs

Applicants seeking to serve or work in a position that requires NSCHC may not be charged for the cost of any component of a National Service Criminal History Check.

## NSCHC Waiver

If the grant recipient or subrecipient is unable to abide by the NSCHC rule, the agency can waive requirements for good cause or any other lawful basis. Contact [NSCHCWaiverRequest@cns.gov](mailto:NSCHCWaiverRequest@cns.gov) for a waiver request form and more information.

Note that waivers are granted on an individual or a time-limited basis, and waivers are not retroactive. Grant recipients should evaluate and implement methods for completing all check components prior to the day an individual begins work or service. This includes incorporating check processing times and anticipating possible check processing delays of up to 30 days.

Grantees experiencing recurring delays or accessibility challenges that regularly impact an applicant's start date may consider requesting a waiver for such recurring challenges.

In rare circumstances of significant check processing delays that are outside the control of the grant recipient, grant recipients may request a waiver for an applicant impacted by such delays.

Additionally, waivers may only be requested by prime grantees; prime grantees may submit requests on behalf of a subrecipient.

## NSCHC Pre-Approved Waivers

Pre-Approved NSCHC Waivers are waivers that grant recipients can use without additional written approval from AmeriCorps. Grant recipients may use these Pre-Approved Waivers at any time, provided they abide by the conditions described below. However, AmeriCorps strongly encourages all grant recipients that intend to use a pre-approved NSCHC Waiver to first consult with their Portfolio Manager to ensure that they understand its requirements. Noncompliance with the NSCHC regulations or with the requirements of a pre-approved NSCHC Waiver may result in a financial impact for the grant recipient.

AmeriCorps may add or remove pre-approved NSCHC Waivers at any time. Maintaining awareness of current pre-approved NSCHC Waivers is the responsibility of grant recipients. Once revoked, an organization may no longer use a pre-approved NSCHC Waiver. When a pre-approved NSCHC Waiver is revoked, the Waiver does not apply to any individuals who begin work or service after the expiration date of the pre-approved NSCHC Waiver. The use of pre-approved NSCHC Waivers should be clearly described within NSCHC policies and procedures, including actions for maintaining awareness of the active AmeriCorps pre-approved NSCHC Waivers. [Refer to Appendix A for active Pre-Approved Waivers.](#)

## Monitoring and Enforcement

AmeriCorps will apply administrative enforcement related to findings of NSCHC noncompliance identified through oversight and monitoring of grant records, such as Payment Integrity Information Act (PIIA) sampling, formerly the Improper Payments Elimination and Recovery Improvement Act (IPERIA), compliance assessments conducted by the Office of Monitoring, and Office of Inspector General audits, reviews, or investigations.

This guidance does not change the legal requirements for the NSCHC, nor does it prevent AmeriCorps or AmeriCorps-OIG from pursuing other civil or criminal enforcement or preventive remedies available by law.

This guidance will be used by AmeriCorps monitoring officials. This guidance uses the term “monitoring officials” to collectively refer to this group of AmeriCorps individuals (excluding personnel of the Office of Inspector General) and the term “recipients” to refer to AmeriCorps prime grant recipients and subrecipients, unless specifically differentiated.

AmeriCorps will also refer and abide by this document in circumstances where grant recipients appeal determinations of NSCHC noncompliance.

This guidance is effective on May 1, 2021 for the following individuals:



- individuals who start service/work on NSCHC-required grants on May 1, 2021 or later and
- individuals who are serving/working on NSCHC-required grants as of May 1, 2021 and continue to serve/work on or after November 1, 2021.

Any NSCHC noncompliance for individuals who are serving/working on NSCHC-required grants as of May 1, 2021 and exit service/work before November 1, 2021 or exited service/work before May 1, 2021 must refer to the July 1, 2019 National Service Criminal History Check Guide to Enforcement Action for enforcement action.

**Ineligibility:** Ineligible individuals are barred from working or serving in a covered position on a grant-funded program. All costs associated with an ineligible individual will be disallowed. Costs include any salary/stipend/living allowance (as applicable), FICA, and education award. These requirements apply whether the associated costs were paid with Federal funds or with matching funds.

If AmeriCorps is made aware of an ineligible individual that the recipient failed to report, AmeriCorps may place the grant's funding on manual hold and/or take additional action.

AmeriCorps employees will, without delay, notify the Office of Inspector General, the Office of the Chief Risk Officer, and the Office of the General Counsel of suspected instances of ineligibility arising from disqualifying criminal histories.

## Monitoring for Compliance

AmeriCorps monitoring officials conducting NSCHC review will conduct a file review. For grant recipients with fewer than 25 individuals serving or working in covered positions during the period of assessment monitored, AmeriCorps monitoring officials will conduct a review consisting of 100% of these files. A period of assessment is the period of grant activity being reviewed for compliance, which is specified in advance by AmeriCorps or other reviewers.

For grant recipients with more than 25 individuals serving or working in covered positions, AmeriCorps monitoring officials conducting NSCHC review will conduct a review consisting of 25 files or 10% of the files for individuals working or serving in covered positions during the period of assessment monitored, whichever is greater. If an ineligible individual is detected within the review of sampled files for those who worked or served during the period of the assessment, additional files from the period being monitored will be reviewed, up to 100% of applicable files. In addition, AmeriCorps reserves the right to expand the scope of the review to additional files from the period being monitored in instances of egregious, pervasive, or systemic noncompliance, or where expansion of scope may support identifying the extent of noncompliance. AmeriCorps may direct the prime grant recipient, as applicable, to conduct the expanded scope review.

**NSCHC Records Compliance:** A compliant NSCHC record consists of the following elements:

- All required components (NSOPW, State(s), and FBI) were completed and on file ([45 CFR §2540.204](#));
- All required components (NSOPW, State(s), and FBI) were conducted on time ([45 CFR §2540.205](#));
- All required components (NSOPW, State(s), and FBI) were conducted through sources authorized by AmeriCorps ([45 CFR §2540.204](#));
- NSOPW is complete (all States, Territories, and participating Indian Tribes were reporting when the search was performed) ([45 CFR §2540.204](#));
- First and Last Name on name-based checks match the name as reflected in grant recipient policy and procedures
- NSOPW, State(s), FBI checks reviewed and an eligibility determination documented by the grantee (adjudicated) ([45 CFR §2540.205](#));
- Documentation of consent from the candidate to conduct State and FBI checks and share results ([45 CFR §2540.206](#));
- Documentation that notice is provided to individual that the national service position is contingent upon the organization's review of the individual's NSCHC component results, if any ([45 CFR §2540.206](#));
- Documentation that the program complies with the requirement to provide a reasonable opportunity for the individual to review and challenge the factual accuracy of the result before action is taken to exclude the candidate from the position ([45 CFR §2540.206](#));
- Documentation that the candidate is eligible to serve/work if a vendor check's adjudication recommendation does not endorse the candidate for service ([45 CFR §2540.205](#)).

## Administrative Remedies and Enforcement for Noncompliance

Noncompliance refers to a situation in which an individual in a covered position is eligible to serve, but the recipient did not fully comply with all NSCHC requirements.

Remedies and enforcement actions will apply to the grant(s) on which noncompliance is identified. AmeriCorps will disallow costs and may engage in other enforcement activities with respect to a prime recipient if the prime recipient or its subrecipients are found to be out of compliance with NSCHC requirements and the prime recipient has not correctly applied disallowance and/or has failed to identify and correct noncompliance prior to AmeriCorps's monitoring of the prime recipient. If the noncompliant grant recipient has other AmeriCorps grants, AmeriCorps will expand the NSCHC review as applicable. AmeriCorps may also direct the prime grant recipient to expand the scope of the review.

The remedies and enforcement actions in this section apply solely to those taken administratively by AmeriCorps. Nothing in this guidance is intended to limit any other available civil or criminal enforcement measures, which may be pursued in addition to

the administrative remedies herein. The remedies and enforcement actions below may be applied singly or in combination, depending on the type of noncompliance found.

**Cost-based Disallowance:** Cost-based disallowance refers to the disallowance of costs associated with an eligible individual's work or service during the period of noncompliance, including salary/stipend/living allowances (as applicable) and FICA. Where costs were paid with matching funds, the disallowance of those matching costs may also result in disallowance of the related Federal funds. Refer to the [Awardee Guide NSCHC Enforcement of Cost-Based Disallowance](#) for guidance on calculating and documenting NSCHC disallowance.

Cost-based disallowance will be applied to noncompliance. In general, the cost of disallowance will not exceed six months; however, if the period of work or service is less than six months or the period of noncompliance is less than six months, the cost will be adjusted to coincide with the period of service, work, or period of noncompliance. Moreover, AmeriCorps may disallow costs for more than six months, if facts and circumstances support that a different period of disallowance will further AmeriCorps's compliance objectives.

Cost-based disallowance will not include the disallowance of AmeriCorps member hours. The actual expenditures that shall be considered for disallowance for each noncompliant file are salary/stipend/living allowance (as applicable) and FICA during the period of noncompliance for which costs are disallowed. These cost categories reflect substantive grant costs. The maximum disallowance amount of the federal share cannot exceed the value of the federal awarded amount.

**Required Use of AmeriCorps Approved Contract with Truescreen and Fieldprint:**

AmeriCorps has contracted with Fieldprint, Inc., (Fieldprint) to provide FBI fingerprint-based checks and Truescreen to provide State and National Sex Offender Public Website (NSOPW) checks to recipients. In most cases, a grant recipient at which NSCHC noncompliance is found will be required to establish accounts through the AmeriCorps contracts with Truescreen and Fieldprint and may be required to recheck noncompliant and other files through these vendors, if not already completed through the vendor. In most cases, recipients will also be required to use these vendors to conduct NSCHC for the remainder of the grant period ([2 CFR §200.339](#), [2 CFR §200.208](#)).

**Manual Hold:** In response to NSCHC noncompliance, specifically circumstances that require corrective action to be taken, AmeriCorps may place grant funds on manual hold review or restriction of funds until the grant recipient demonstrates that it has satisfactorily implemented required corrective action, which may include conducting NSCHC using the AmeriCorps-approved contract with Truescreen and Fieldprint. AmeriCorps may use either of these remedies as it deems appropriate.

A manual hold may include a manual review of expenses prior to reimbursement or a full restriction of grant funds.

1. Manual Hold Review ([2 CFR §200.339](#)): This includes a review of expenses by AmeriCorps staff prior to the release of funds. The inspection/review of reimbursement or advance requests submitted by a grant recipient is performed prior to the release of funds to the grantee to ensure that all fund requests are necessary, allowable, allocable, and reasonable with Uniform Guidance regulations and grant terms and conditions.
2. Restrictions of Funds ([2 CFR §200.339](#)): This action will prevent a grant recipient from accessing Federal funding from AmeriCorps. For these cases, a letter to Health and Human Services Payment Management System will be processed and forwarded to HHS and the AmeriCorps grant funds will be inaccessible to the recipient.

Manual hold review or restrictions of federal grant funds will be applied to the specific grant(s) on which NSCHC noncompliance is identified. For NSCHC noncompliance identified on a State Commission subrecipient, the Commission will be directed, to the extent possible, to apply the manual hold review or restriction of funds to the noncompliant subrecipient. NSCHC noncompliance detected in multiple State Commission subrecipients may result in a manual hold review or restriction of funds against the State Commission. For non-Commission direct grant recipients, including Social Innovation Fund grantees, manual hold review, or restriction of funds will be applied against the direct grant.

**Other Administrative Remedies:** AmeriCorps will employ other administrative remedies as deemed appropriate. These other administrative remedies include:

Remedy	Definition	Example
Grant Suspension	A grant suspension includes a hold on all grant activities, including participant service, and funding ( <a href="#">2 CFR §200.338</a> ).	Grant suspension may be used in response to NSCHC noncompliance. Grant suspension may also be applied in cases of noncompliance for zero-dollar grants.
Grant Termination	Grant termination refers to the ending of the award, in whole or in part, at any time prior to the planned end of period of performance ( <a href="#">Grant and Cooperative Agreement Terms and Conditions</a> , Section III.O; <a href="#">2 CFR §200.340</a> ).	Grant termination may be used in response to NSCHC noncompliance. Grant termination may also be applied in cases of noncompliance for zero-dollar grants. Suspension may precede termination proceedings; not all suspensions will result in termination.

Remedy	Definition	Example
Impact Future Awards	Noncompliance with NSCHC may be considered as a factor in the agency's future funding determinations (2 CFR §200.205).	AmeriCorps may consider NSCHC noncompliance part of its awarding considerations for future funding.

## Guide to Enforcement Actions and Remedies

AmeriCorps response to NSCHC noncompliance will conform to the chart below. AmeriCorps reserves the right to impose enforcement actions and remedies at its discretion in accordance with applicable laws. In instances of egregious, pervasive, systemic noncompliance of any element, AmeriCorps reserves the right to impose all available remedial measures. AmeriCorps expects prime grantees to implement this guidance for cost-based disallowance when findings of NSCHC noncompliance are identified with subrecipients.

Nature of Noncompliance	Enforcement Action and Remedy (as applicable)
<p>Missing NSCHC component (NSOPW, State(s), and/or FBI)</p> <p>Noncompliant NSCHC source</p> <p>NSOPW incomplete (missing state, territory, or Indian country)</p> <p>Name-based check not conducted on the legal name of the individual, as reflected on documentation used to verify the identity of the individual</p>	<ul style="list-style-type: none"> <li>• Corrective action to cure deficiency and ascertain eligibility</li> <li>• Cost-based disallowance</li> <li>• Required use of AmeriCorps-approved contract with Truescreen and Fieldprint (if not already used) for the remainder of the grant period. This may include rechecks of all NSCHCs through the vendors. If vendors already used, rechecks required for noncompliance other than lateness.</li> <li>• Manual hold review or restriction of funds pending completion of corrective action</li> </ul>
<p>Late NSCHC component (NSOPW, State(s), and/or FBI)</p> <p>Grant recipient did not review results and document the individual is cleared to serve (NSOPW, State(s), and/or FBI)</p>	<ul style="list-style-type: none"> <li>• Corrective action to cure deficiency and ascertain eligibility</li> <li>• Cost-based disallowance</li> <li>• Required use of AmeriCorps-approved contract with Truescreen and Fieldprint (if not already used) for the remainder of the grant period. This may include rechecks of all NSCHCs through the vendors. If vendors</li> </ul>

Nature of Noncompliance	Enforcement Action and Remedy (as applicable)
	already used, rechecks required for noncompliance other than lateness.
Nature of Noncompliance	Enforcement Action and Remedy (as applicable)
<p>Missing documentation of consent from the candidate to conduct State and FBI checks</p> <p>Missing documentation of notice provided to the candidate that the national service position is contingent upon the organization's review of the individual's NSCHC component results, if any</p> <p>Missing documentation that the program complies with the requirement to provide a reasonable opportunity for the candidate to review and challenge the factual accuracy of the result before action is taken to exclude the candidate from the position</p> <p>Missing documentation the grant recipient paid for the cost of the NSCHC</p> <p>Missing documentation that the candidate is eligible to serve/work if a vendor check's adjudication recommendation does not endorse the candidate for service</p>	<ul style="list-style-type: none"> <li>• Corrective action to cure deficiency</li> <li>• Required use of AmeriCorps-approved contract with Truescreen and Fieldprint (if not already used) for the remainder of the grant period. This may include rechecks of all NSCHCs through the vendors. If vendors already used, rechecks required for noncompliance other than lateness.</li> <li>• Manual hold review or restriction of funds pending completion of corrective action</li> </ul>

As noted above, noncompliance with NSCHC may also be considered as a factor in the agency's funding determinations and may impact an organization's future grant awards.

In applicable cases, based on facts and circumstances, AmeriCorps may suspend or terminate the grant in response to NSCHC noncompliance.

## Appendix A: Pre-Approved NSCHC Waivers

AmeriCorps may add or remove pre-approved NSCHC Waivers at any time. Maintaining awareness of current pre-approved NSCHC Waivers is the responsibility of grant recipients. Once revoked, an organization may no longer use a pre-approved NSCHC Waiver. When a pre-approved NSCHC Waiver is revoked, the Waiver does not apply to any individuals who begin work or service after the expiration date of the pre-approved NSCHC Waiver.

The use of pre-approved NSCHC Waivers should be clearly described within NSCHC policies and procedures, including actions for maintaining awareness of the active AmeriCorps pre-approved NSCHC Waivers.

Noncompliance with the NSCHC regulations or with the requirements of a pre-approved NSCHC Waiver may result in cost disallowance.

### 1. Use of Truescreen for NSOPW and/or State Checks

**Effective May 1, 2021:** In July 2018, AmeriCorps contracted Truescreen to provide State and NSOPW checks to grantees for individuals who are required to comply with NSCHC.

Grantees who use Truescreen must set up an account with Truescreen through <https://applicationstation.truescreen.com> with the AmeriCorps specific agreement code.

Truescreen does not provide information for the following states and territories:

States	States/Territories
California	Guam
Delaware	Northern Mariana Islands
Louisiana	Puerto Rico
Nevada	New Hampshire (added 1/26/2022)
New Mexico	
Virginia	
Massachusetts (added 12/20/2018)	
Mississippi (added 6/1/2019)	

Between 11/15/18 to 8/12/19, Truescreen did not provide information for New Hampshire. From 8/12/2019 to 1/25/2022, New Hampshire was accessible by Truescreen and was not on this pre-approved Waiver.

Between 11/15/18 to 8/21/19, Truescreen did not provide information for American Samoa and Virgin Islands. As of 8/21/19, American Samoa and Virgin Islands are accessible by Truescreen and was removed from this pre-approved Waiver.

Grantees using Truescreen will not be required to get a check from an unavailable state/territory for individuals required to comply with NSCHC if they have:

- 1) obtained an NSOPW check from Truescreen,
- 2) obtained any required state checks that **are** available from Truescreen, and
- 3) conducted a fingerprint-based FBI check.

Please note:

This pre-approved Waiver does not apply to grant recipients who obtain NSCHC from Truescreen through an account **not** established with the AmeriCorps specific agreement code. Such checks are noncompliant.

### **Example 1: One state check is not available from Truescreen**

An individual required to comply with NSCHC will serve in California (state of service **is not** available from Truescreen) and is residing in Alabama at the time of application (state of residence **is** available from Truescreen). The grantee must conduct a Truescreen NSOPW check, a fingerprint-based FBI check, and a Truescreen Alabama state criminal history check. The grantee does not need California state criminal history check.

### **Example 2: Both state checks are not available from Truescreen**

An individual required to comply with NSCHC will be serving in Virginia (state of service **is not** available from Truescreen) and is residing in Puerto Rico at the time of application (state/territory of residence **is not** available from Truescreen). The grantee must conduct a Truescreen NSOPW check and a fingerprint-based FBI check. No separate state and territory checks are required.

### **Example 3: All state checks are available from Truescreen**

An individual required to comply with NSCHC will serve in Illinois (state of service **is** available from Truescreen) and is residing in Indiana at the time of application (state of residence **is** available from Truescreen). The grantee must conduct a Truescreen NSOPW check, a fingerprint-based FBI check, a Truescreen Illinois state criminal history check, and a Truescreen Indiana state criminal history check.



## 2. National Fingerprint File States

**Effective May 1, 2021:** The National Fingerprint File (NFF) is an electronic information sharing system maintained by the Federal Bureau of Investigation (FBI). The NFF allows the FBI and the States to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment.

States that participate in the NFF respond to record requests for all authorized noncriminal justice purposes and, as such, the FBI ceases to maintain duplicate criminal history data for these states. When a state participates in the NFF system, an FBI fingerprint check is duplicative of the search of a state's criminal history record repository. An FBI fingerprint check eliminates the need for grantees to conduct duplicative state criminal history record checks in states that participate in the NFF system.

Therefore:

- If a required state check is from a state that **participates in the NFF**, then the grantee does not need to conduct the check in that NFF state if they have conducted a fingerprint-based FBI check.
- If a required state check is from a state that **does not participate in the NFF**, then this pre-approved Waiver is not applicable, and the grantee must obtain the appropriate NSCHC state check(s).

The following states participate in the NFF program. States beginning participation in NFF after May 1, 2021 are listed with their effective date. NSCHCs for those states conducted on or after the effective date listed may apply this waiver.

Arizona (as of 4/19/24)	Connecticut (as of 7/25/21)	Colorado	Delaware (as of 4/19/24)	Florida
Georgia	Hawaii	Idaho	Iowa	Kansas
Maryland	Michigan (as of 9/15/21)	Minnesota	Missouri	Montana
North Carolina	New Jersey	New York	Ohio	Oklahoma
Oregon	Tennessee	Utah (as of 4/13/22)	Vermont (as of 6/16/21)	West Virginia
Wyoming				

### **Example 1: One state participates in NFF**

An individual who is required to comply with NSCHC will serve in Maine (state of service **does not** participate in NFF) and resides in Colorado at time of application (state of residence **does** participate in the NFF). The grantee must conduct an NSOPW check, a fingerprint-based FBI check, and a Maine state criminal history check. The grantee does not need a separate state of residence criminal history check from Colorado. The Colorado criminal history record information is included in the fingerprint-based FBI check.

### **Example 2: Both states participate in the NFF**

An individual who is required to comply with NSCHC will serve in Ohio (state of service **does** participate in NFF) and resides in Iowa at time of application (state of residence **does** participate in the NFF). The grantee must conduct an NSOPW check and a fingerprint-based FBI check. No separate state checks are required. Ohio and Iowa criminal history record information is already in the fingerprint-based FBI check.

### **Example 3: No states participate in the NFF**

An individual who must comply with NSCHC will serve in Wisconsin (state of service **does not** participate in NFF) and resides in New Mexico at time of application (state of residence **does not** participate in the NFF). The grantee must conduct an NSOPW check, a fingerprint-based FBI check, a Wisconsin state criminal history check, and a New Mexico state criminal history check.

## **3. Disability Accommodation Exemption for FBI Fingerprint Checks**

**Effective May 1, 2021:** AmeriCorps will exempt the fingerprint FBI check requirement for individuals who are required to comply with NSCHC, if conducting a fingerprint check is a physical impossibility as a result of disability, such as the absence of limbs. The grantee is still required to conduct NSOPW and name-based state check(s) on the individual.

## Appendix B: Who is required to conduct NSCHC? Graphic

