

## NATIONAL SERVICE CRIMINAL HISTORY CHECK (NSCHC) POLICIES AND PROCEDURES – Updated: March 2, 2018

### Sections and Topics

#### Contents

Introduction .....	1
Useful Links .....	2
1. Annual NSCHC Training Requirement .....	2
2. Regulations, Effective Dates, and NSCHC Components .....	3
3. Covered Grant Recipients .....	6
4. Covered Individuals .....	8
5. Ineligible Individuals .....	13
6. When to Conduct an NSCHC .....	15
7. How to Conduct an NSCHC .....	16
8. National Sex Offender Public Website (NSOPW.gov) .....	19
9. Statewide Criminal History .....	20
10. Federal Bureau of Investigation (FBI) Criminal History .....	22
11. Alternative Search Procedure (ASP) .....	23
12. For-profit Background Check Vendors .....	25
13. Documentation for NSCHC Requirements .....	26

#### Introduction

The National Service Criminal History Check (NSCHC) is a screening procedure established by law to protect the beneficiaries of national service. This guidance must be followed per the NSCHC requirements ([45 CFR 2540.200 - .207](#)). You may face enforcement remedies, including financial consequences, if you deviate from the requirements.

The Corporation for National and Community Service's (CNCS) NSCHC requirements are baseline screening procedures, in terms of both screening criteria and safeguarding. Organizations working with vulnerable populations should institute a holistic framework for safeguarding beneficiaries of service. Safeguarding is broader than screening, as it includes additional actions you can take to ensure the health and safety of beneficiaries. Safeguarding includes procedures that provide clear steps on what to do to limit the risk to beneficiaries, it assigns roles and responsibilities and documents policies and procedures, and it complies with the process for investigating complaints.

We'll periodically update these FAQs. If you'd like to get updates, click on the red envelope at the top right-hand corner of [nationalservice.gov](#). Once you enter your email address and preferred delivery method, you'll be given a list of update topics. Select "Criminal History Checks for National Service Programs."

## Useful Links

The [Federal Register Notice of the Final Rule](#) on NSCHC, published on October 5, 2012

The [Criminal History Check Resources](#) page on the CNCS Knowledge Network

The [NSCHC required e-course](#).

The [NSCHC Video Training Library](#)

## 1. Annual NSCHC Training Requirement

Requirement: CNCS requires annual training on NSCHC requirements.

### **1.1. Where can I find the required NSCHC training?**

The annual NSCHC training has been required since 2016 by CNCS's grant terms and conditions. Please visit CNCS's [new online learning system, Litmos](#), to access the e-course. The website will redirect to the NSCHC course page. If it does not, search for the course called "National Service Criminal History Check." (First-time users can request log-in information by sending an email to [servicesresources@cns.gov](mailto:servicesresources@cns.gov).) You must complete the course and pass its post-test to meet the requirement. The system will generate a certificate of completion for you when you're done. You must maintain this certificate as a grant record.

### **1.2. Which grant recipients must complete this required training?**

Grant recipients that either 1) have covered positions for which an NSCHC is required or 2) are responsible for monitoring other organizations' NSCHC compliance must make sure that the appropriate staff complete the required training. (See Section 4 for more information on covered positions.)

If the prime recipient centralizes the NSCHC process (meaning any subrecipient organizations do not independently conduct the NSCHC), then only the prime recipient staff is required to complete the NSCHC e-course.

### **1.3. Which staff members must take this training?**

Staff who are responsible for NSCHC compliance within the organizations described in Question 1.2. All organizations described in 1.2 must have at least one person take the NSCHC training each year. Although only one person per grant is *required* to take this training, CNCS *strongly recommends* making sure at least two people in every organization described in 1.2 take the training, in order to limit the risk of noncompliance in case of unexpected absences or staff turnover. Organizations with multiple grants from CNCS must have one person *per grant* take the training, unless a single person is responsible for managing the NSCHC requirements across all grants.

### **1.4. When must appropriate staff take the training?**

The designated staff must take the training **every calendar year**. The organization must make sure that at least one person on staff *always* has an up-to-date certification from the e-course, continuously from the time that the first designated person at the organization successfully completes the training. For example, if an individual in an organization first completes the e-course on June 1, 2017, either that same individual or another, appropriately designated, individual in the organization must complete the e-course again no later than May 31, 2018. Maintain all certificates as grant records.

### **1.5. How should prime recipients document compliance with the NSCHC training requirement?**

When a person successfully completes the e-course, the system generates a certificate for the learner, with an expiration date that is one year from the day it's issued. Organizations must keep this certificate to document compliance with the requirement for annual training and *continuous* certification. You must maintain all of the annual

certificates as grant records, and store all of them with your organization's other NSCHC documentation. Organizations must make sure their policies and procedures designate appropriate staff to complete the course.

## 2. Regulations, Effective Dates, and NSCHC Components

*Definitions: National Service Criminal History Check (NSCHC) refers to the specific criminal history screening procedures mandated by CNCS's regulations at [45 CFR 2540.200-207](#).*

### 2.1. How have the NSCHC requirements changed over time?

Since November 23, 2007, CNCS regulations have required recipients to perform the NSCHC on individuals who have recurring access to a vulnerable population. Vulnerable populations include children 17 years of age or younger, persons age 60 and older, or people with disabilities.

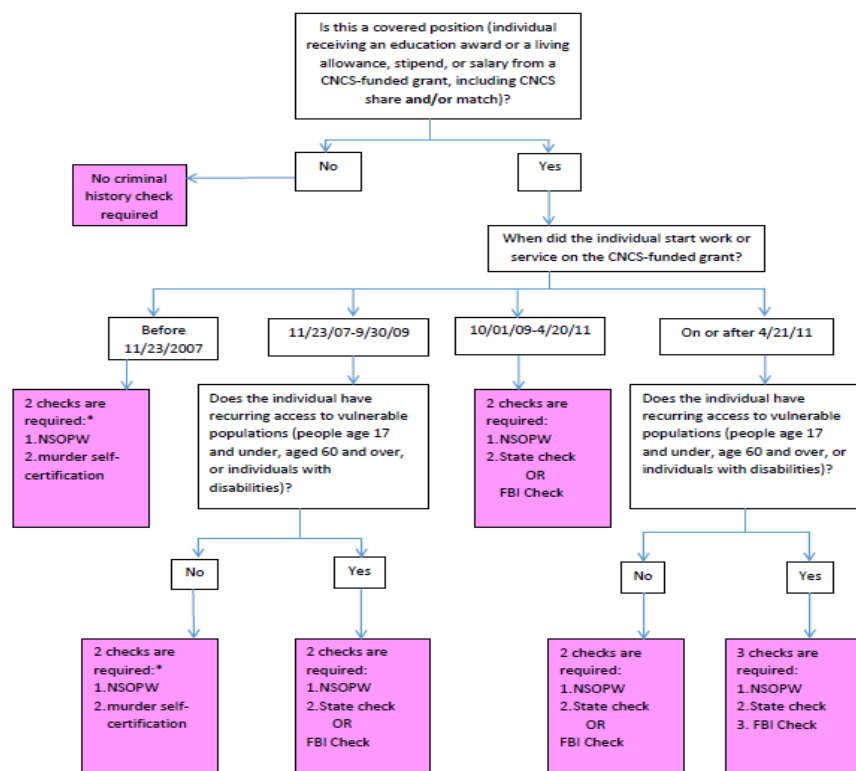
On October 1, 2009, CNCS statutes expanded the requirements to check any person receiving a living allowance, stipend, national service education award, or salary through a grant recipient receiving CNCS funds, regardless of their level of contact with a vulnerable population.

Finally on January 1, 2013, CNCS issued regulations to fully implement the 2009 statutory changes that required a fingerprint-based FBI criminal history check for those individuals in covered positions who have recurring access to vulnerable populations.

### 2.2. What are the NSCHC requirements based on an individual's start date?

You can find a description of the requirements based on the individual's start date here:

<https://www.nationalservice.gov/CHCEffectiveDates>. Below is a flow chart showing the same information.



\*Requirements came into effect as of 1/1/13. Documentation must be established by this date for individuals in these categories.

### 2.3. What is the murder self-certification requirement?

On April 21, 2009, the Edward M. Kennedy Serve America Act was signed into law. The Act expanded the requirements of the National Service Criminal History Check and specified that an individual convicted of murder is ineligible to serve in a covered position (see the definition of covered position in FAQ 4.1). A final rule implementing the requirements of the National Service Criminal History Check went into effect on January 1, 2013. This rule clarified that a person with a murder conviction serving in or employed in a covered position as of January 2, 2013, regardless of when the individual first started serving, could not continue serving or working in any covered position. Individuals convicted of murder were immediately removed from service or grant-funded employment in a covered position. Individuals currently serving or working in covered positions who began work or started service prior to October 1, 2009 were asked to self-certify that they have not been convicted of murder, as defined by 18 U.S.C. § 1111. Model language for a self-certification statement and more information are provided [here](#). Individuals that have undergone a compliant state or FBI check as described in FAQs 2.7 and 6.2 do not need this certification.

### 2.4. What does the term gap period refer to?

The gap period is the period of time between April 21, 2011 and December 31, 2012 during which the requirements of [45 C.F.R. § 2540.203\(b\)](#) were effective. If an individual started in a covered position on or after April 21, 2011 and completed work or service before December 31, 2012, then only a two-part check was required.

### 2.5. For individuals starting work or service during the gap period, what checks were required?

Regardless of recurring access to vulnerable populations, individuals who started service on or after April 21, 2011 and who completed their service before January 1, 2013 require the NSOPW and either the state component *or* the FBI component, not both.

If you started work or service on or after April 21, 2011 and completed service *after* January 1, 2013, NSCHC requirements depend on the level of access to vulnerable populations:

- For positions without recurring access or with episodic access to vulnerable populations, these checks are required:
  - A nationwide, name-based check of the NSOPW AND
  - Either a name- or fingerprint-based search of the statewide criminal history registry in the candidate's state or residence *and* in the state where the person will serve or work; OR a fingerprint-based FBI check
- For positions with recurring access to vulnerable populations, these checks are required:
  - A nationwide name-based check of the NSOPW
  - Either 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.

See FAQ 2.7 for more information on required components of the NSCHC.

### 2.6. What is the NSCHC Assessment Period (2014)?

From October 14, 2014, to December 5, 2014, CNCS required an Assessment Period where recipients had a one-time opportunity to review their personnel files and come into complete NSCHC compliance without risk of a financial consequence. Individual files where recipients corrected instances of missing or incomplete checks during the Assessment Period are not subject to financial consequences for any noncompliance occurring before December 6, 2014.

The 2014 Assessment Period financial consequence moratorium does not apply to:

- Ineligible individuals
- Transactions tested under CNCS's 2014 Improper Payments Elimination and Recovery Improvement Act (IPERIA) activities.
- Individual files that recipients reviewed during the assessment period, but did not correct noncompliance by completing all missing or incorrectly performed checks.

As discussed above, if a recipient corrected an individual's noncompliant criminal history check during the Assessment Period, that check is considered compliant. If a recipient corrected one part of a file, but not another part – for example, if they conducted a NSOPW, but not an FBI check, even though one was required – that file is still noncompliant. Checks that were conducted late before the Assessment Period ended but were complete and from the right source are considered compliant after December 5, 2014.

## 2.7. What are the components of an NSCHC?

For positions without recurring access or with episodic access to vulnerable populations, these checks are required ([https://www.ecfr.gov/cgi-bin/text-idx?SID=ad77b7a8b7110690e5c47c893e69e014&node=se45.4.2540\\_1203&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad77b7a8b7110690e5c47c893e69e014&node=se45.4.2540_1203&rgn=div8)):

A nationwide name-based check of the National Sex Offender Public Website (NSOPW). The NSOPW is a centralized system that identifies people who are registered as sex offenders in states, territories, and with many federally recognized Tribes AND

- Either 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; OR a fingerprint-based FBI check.

For positions with recurring access to vulnerable populations, these checks are required

([https://www.ecfr.gov/cgi-bin/text-idx?SID=ad77b7a8b7110690e5c47c893e69e014&node=se45.4.2540\\_1203&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad77b7a8b7110690e5c47c893e69e014&node=se45.4.2540_1203&rgn=div8)):

- A nationwide name-based check of the NSOPW
- Either 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.

## 2.8. What is the definition of vulnerable populations?

Vulnerable populations include children age 17 or younger, persons age 60 and older, and/or people with disabilities. People with disabilities are defined as having a physical or mental impairment which substantially limits one or more major life activities, having a record of such impairment, or regarded as having such impairment.

## 2.9. What is the definition of recurring access?

Recurring access is “the ability on more than one occasion to approach, observe, or communicate with a person, through physical proximity or other means, including but not limited to, electronic or telephonic communication.” (45 C.F.R. § 2510.20).

## **2.10. What is the definition of episodic access?**

Recurring access is typically a regular, scheduled, and anticipated component of a person's service activities.

Episodic access is typically NOT a regular, scheduled, and anticipated component of a person's service activities. If access to vulnerable populations is episodic, the recipient is not required to conduct both the state criminal history check component and the fingerprint-based FBI criminal history check component of the NSCHC. Grant recipients can opt to conduct either the state or FBI check. A recipient does not need CNCS approval to use the "episodic access" exception to the NSCHC requirements.

Episodic access is not defined by a specific number of contacts. In other words, if a recipient does not anticipate that a person will have access to vulnerable populations, the NSCHC requirements will not apply after access occurs some specific number of times, but will apply once the access becomes regular, scheduled and anticipated.

If episodic access becomes unexpectedly regular or frequent, a recipient should re-evaluate its initial determination of episodic access and take appropriate action. In the majority of cases, it will be clear whether or not access to vulnerable populations is a regular, scheduled, and anticipated component of a person's service activities.

CNCS recommends that grant recipients specifically address contact with vulnerable populations in each position description, service agreement, or similar document describing a person's service activities.

## **2.11. Is a background check the same as an NSCHC?**

No. Background checks can mean many different things and have many different components, many of which may not be relevant to the NSCHC. For example, credit reports and interviews with personal references are examples of background checks that are not relevant to the NSCHC. In addition, not all background checks include all the necessary components of the NSCHC.

## **2.12. I am told that my organization is not eligible to receive a criminal history check because we are clearing people for employment. What do I do?**

You should provide the following explanation: An NSCHC is required for a person to serve in a CNCS grant program. It is *not* a check to approve employment. You may employ someone, but they may be prohibited from serving in a CNCS grant program. Contact your CNCS Program Officer or Grants Officer immediately if you are not permitted to conduct required checks.

## **3. Covered Grant Recipients**

*Requirement: The NSCHC is a requirement of all grant recipients that receive CNCS funding to pay a salary, stipend, living allowance, or the provision of national service education awards.*

### **3.1. Which recipients, staff, and national service participants are required to comply with the NSCHC requirements?**

All grant recipients that receive CNCS funding for a salary, stipend, living allowance, or the provision of national service education awards are covered by the NSCHC rules. These include but are not limited to:

- AmeriCorps State Grants, including full-cost fixed amount grants
- AmeriCorps National Grants, including full-cost fixed amount grants
- AmeriCorps Planning Grants
- Foster Grandparent Program Grants (stipended participants and fixed cost program staff)
- Non-profit Capacity Building Grants
- Martin Luther King Day of Service Grants



- RSVP Grants
- School Turnaround AmeriCorps Grants
- Senior Companion Program Grants
- Senior Demonstration Program Grants that receive federal funding
- September 11th Challenge Grants
- Social Innovation Fund Grants
- Summer of Service Grants
- VISTA Support Grants (Staff funded by CNCS share)
- Volunteer Generation Fund Grants

### **3.2. What recipients and people are not required to comply with NSCHC requirements?**

There are a few grant types that are not covered because they do not fund an activity that meets CNCS's definition of a recipient. Also, some individuals are not covered because they do not receive any payment types specified by law.

#### **Non-covered grant types:**

- AmeriCorps State Commission Support grants
- AmeriCorps Commission Investment Fund grants
- Senior Demonstration Program Grants that receive no federal funding

#### **Individuals not required to undergo an NSCHC:**

- Staff of AmeriCorps Fixed Price Education Award Programs (EAPs)
- Staff of fixed amount Professional Corps
- Staff whose salaries are covered under the grantee's indirect cost rate, or cost allocation plan
- Recipients of Summer of Service awards
- RSVP volunteers
- Non-stipended Senior Companions
- Non-stipended Foster Grandparents
- VISTA volunteers (criminal history check screening procedures are performed by CNCS personnel)
- Citizens who benefit from service, but are not providing service (i.e. beneficiaries)
- Contractors delivering goods or services to a recipient for a fee
- Community volunteers with no affiliation or attachment to the recipient, and who receive no financial remuneration

### **3.3. Do the NSCHC requirements apply to national service participants in EAPs, full-cost fixed-amount grants, and other fixed-amount grants?**

Yes, because national service participants receive National Service Education Awards.

### **3.4. Do the NSCHC requirements apply to staff of EAPs, full-cost fixed-amount grants, and other fixed-amount grants?**

Both EAP and Professional Corps **fixed-amount** grant staff are not required to conduct checks on their employees or partner's staff because the small amount of Federal support per member does not establish a nexus between the Federal assistance awarded and the payment of salaries using grant funds. However, the funding provided to a full-cost, fixed-amount grant is sufficient to contribute towards the full range of recipient costs including salaries.

Therefore the NSCHC requirements apply to individuals performing program activities under a full-cost fixed amount grant. Examining the funded grant application narrative wherein the program's activities are described will assist in identifying covered positions.

### **3.5. Does the requirement to conduct an NSCHC pass through to sub-recipients and other recipients of national service resources (e.g. through sub-grants)?**

Yes, as with all grant program provisions, law and regulations, the requirement to perform the NSCHC applies to any subrecipients or partners implementing a covered national service program. This requirement applies no matter how large or small the dollar amount of the sub-award, or whether the costs are covered by CNCS federal funds or non-federal matching funds.

## **4. Covered Individuals**

*Requirement: NSCHC requirements only apply to individuals serving or working in covered positions.*

### **4.1. What is a covered position?**

Individuals who are serving through or employed by a national service program who receive a living allowance, stipend, national service education award, or salary are in a covered position, regardless of the type of service, their access to vulnerable populations, or whether they are paid with federal or matching funds. See FAQ 3.3 and 3.4 for covered positions in fixed amount grants.

### **4.2. How can we determine if a staff person or national service participant is covered?**

You can most easily identify covered individuals using the "on the budget" or expenditure report test. Covered positions are usually, but not always, listed on the recipient's approved grant budget. If the position is listed on the budget, it passes the "on the budget" test and is covered. Sometimes a covered position may be added to the budget without requiring a formal budget amendment. In this case, covered positions are identified by using the expenditure report test. If the cost of the payment is included in the federal or matching program costs reported for the recipient or its sub-recipients on the Federal Financial Report, then the person is in a covered position.

Please note: Senior Corps grants have an Excess column on their budget. Individuals receiving a salary or stipend exclusively from this column are not in covered positions for the purposes of National Service Criminal History Checks. If, however, the same individual received any percentage of salary or stipend from the federal or match share of the budget they are in a covered position and must undergo the appropriate checks. If monitored, it is the responsibility of the recipient to produce both past and current documentation to show that no federal or match funds have been spent to support the volunteer and/or employee.

### **4.3 How can we determine if a staff person or national service participant, in a fixed-amount grant with no budget or FFR, is in a covered position?**

Staff or national service participants who carry out the grant-funded activities or administer the grant are in covered positions. If you are exempt from submitting budgets or financial reports, you should examine the activities in the funded grant application's narrative to determine the covered positions. Covered positions do not include individuals serving in positions identified in FAQ 3.2.

### **4.4. What employees are subject to the NSCHC requirements?**

The NSCHC requirements cover employees whose positions are funded in part or in whole with a CNCS grant, either as CNCS share or the recipient share. Therefore, not only are your direct employees covered, but so are your partners' and sub-recipients' employees if they are assigned to perform grant activities and you are including their pay as matching funds.



To identify employees who are covered, check to see if they are listed on the budget, then determine if they are or will be receiving compensation (e.g., salary, wage, living allowance, stipend) for performing grant activities. Keep in mind that there are a variety of ways that costs may be listed, including single positions, grouped position types, or lump-sums for sub-award-supported activities. See FAQ 3.3 and 3.4 for covered positions in fixed amount grants.

#### **4.5. What about employees of partner organizations who supervise members or volunteers?**

You must apply the same test used to identify employees working in covered positions to your partners' employees. If CNCS or recipient matching share of your grant is part of the salaries paid to these people, then they are working in covered positions and must have an NSCHC. If a partner's employees are not identified in the grant budget and their associated compensation is not claimed as matching share expenditures, then those employees are not in covered positions. Please see FAQ 3.4 for guidance on fixed amount grants.

#### **4.6. Do hourly-wage staff (i.e. not salaried) need to undergo the NSCHC?**

Yes. The NSCHC requirements do not change based on whether an individual is paid hourly or salaried. A person who receives an hourly wage directly attributable to the grant must have the NSCHC conducted.

#### **4.7. I'm a VISTA sponsor who receives a VISTA support (S&T) or program grant. I use part of the CNCS federal share of the VISTA grant to pay staff salaries. Do I have to conduct an NSCHC for my staff whose salary is fully or partially funded from the "CNCS Share" of the VISTA grant?**

Yes. You're required to do an NSCHC for all staff whose salary is fully or partially funded from the "CNCS Share" of a VISTA grant, and you can use VISTA grant funds from the CNCS Share of the VISTA grant to pay for the checks.

#### **4.8. I'm a VISTA sponsor who receives a VISTA support (S&T) or program grant. The "Grantee Share" column of my grant budget reflects staff salaries. Do I have to conduct an NSCHC for staff whose salaries are reflected solely on the "Grantee Share" column of the VISTA grant budget and paid entirely from non-CNCS funds?**

No, you don't have to do an NSCHC for staff whose salaries are reflected solely on the "Grantee Share" column of the VISTA grant budget and paid entirely from non-CNCS funds. VISTA grants do not require the sponsor to provide a specified level of matching funds in order to be eligible to spend the federal funds. Amounts reflected in the "Grantee Share" are for informational purposes.

#### **4.9. A former VISTA member has been selected in a covered position in our national service program for which an NSCHC is required. Do we need to conduct a new NSCHC on this individual?**

Yes, you must conduct a completely new NSCHC. The criminal history checks that CNCS does for VISTA members are not transferable to grant recipient organizations to satisfy the NSCHC requirements for people who work or serve in a covered position.

#### **4.10. What NSCHC is required for a person in a covered position whose access to vulnerable populations is limited to people who, themselves, are in a covered position (i.e. both people are serving in covered positions and one person is a member of a vulnerable population)?**

The NSCHC three-component requirement for people with recurring access to vulnerable populations applies to the person who is providing service **to** vulnerable populations, not providing service **with** vulnerable populations. Only the two-component NSCHC is required if the person's recurring access to vulnerable people is limited to those who are, themselves, serving in a covered position. This includes an RSVP staff member who does not have recurring access to the beneficiaries served by the RSVP volunteers' service. Recipients must make an informed decision about whether a person in a covered position is providing service to a vulnerable population. The recipient

should ask, whether a reasonable person, based on the totality of the circumstances, would determine that the population served by the person was a vulnerable population.

#### **4.11. Why don't the NSCHC rules cover community volunteers who are recruited by national service recipients?**

The NSCHC only applies to people who receive a national service education award, stipend, living allowance, or salary under a grant from CNCS. Community volunteers do not receive this kind of compensation.

#### **4.12. The NSCHC requirements for people in covered positions with recurring access to vulnerable populations apply to those 18 and older. How do we apply NSCHC requirements to minors who are not 18 at the start of service, but who will turn 18 during their term of service?**

##### NSCHC Requirements for an Individual who **WILL** turn 18 during Service:

The recipient must conduct these checks if the individual has **recurring access** to vulnerable populations:

**NSOPW, name- or fingerprint-based State check(s) and fingerprint-based FBI check**

The individual is **required** to be accompanied during service while state check(s) or FBI check components are pending.

The recipient must conduct these checks if the individual has **no or episodic access** to vulnerable populations:

**NSOPW, name- or fingerprint-based State check(s) or fingerprint-based FBI check**

##### NSCHC Requirements for an Individual who will **NOT** turn 18 during Service:

The recipient must conduct these checks if the individual has **recurring access** to vulnerable populations:

**NSOPW, name- or fingerprint-based State check(s) or fingerprint-based FBI check**

The individual is **required** to be accompanied during service while state check(s) or FBI check components are pending.

The recipient must conduct these checks if the individual has **no or episodic access** to vulnerable populations:

**NSOPW, name- or fingerprint-based State check(s) or fingerprint-based FBI check**

An individual's age has no effect on the timing requirements of the checks specified in 45 CFR 2540.204.

If state law prohibits checks on individuals under 18, you must request an ASP from CNCS. (See Section 11: Alternative Search Procedure (ASP).)

#### **4.13. Do we have to conduct the NSCHC on people who are living outside of the United States at the time they apply for a covered position?**

Yes. In addition to an NSOPW check, you must check the records in the person's last state of residence in the United States, as well as in the state where the individual serves or works. If the person never lived in the United States, then you are only required to check the records in the state where he or she will be serving or working.

#### **4.14. Do we have to conduct the NSCHC on administrative staff whose time is allocated to the grant indirectly?**

No. You are not required to conduct the NSCHC on staff whose time is allocated to the grant as part of an indirect cost rate pool or similar agreement. These people hold positions that are not identified on the grant budget, and their work is of a generic, indirect nature usually serving the entire organization. However, recipients are encouraged

to develop a prudent criminal history check policy that addresses indirect cost pool administrative staff, appropriate to their program design and populations.

#### **4.15. Is an NSCHC required of contractors?**

In most cases, no. CNCS 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. §§ 200.22 & 200.92](#), respectively. 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. § 200.330](#), “Subrecipient and contractor determinations.”

**Subaward:** The NSCHC requirement *does apply* to individuals in covered positions who work or serve under subawards, as defined under [2 C.F.R. § 200.92](#). 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. § 200.330\(a\)\(4\)](#).

**Contractor:** The NSCHC requirement *does not apply* to individuals who provide services under a contract, as defined under [2 C.F.R. § 200.22](#). 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, CNCS 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, Senior Corps 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.

#### **4.16. Does the requirement to conduct an NSCHC on staff apply to state commission staff?**

Usually, no. Because the intent of the law is to establish requirements at the operational level, and commissions usually do not directly operate or assign staff to perform national service program activities, commission employees are usually not covered positions. However, commission staff may require an NSCHC if they are assigned to perform grant activities. This guidance applies to a state commission regardless of whether the commission is a state governmental entity or an independent, incorporated non-profit. The NSCHC requirements do apply if the commission receives a Volunteer Generation Fund grant and uses the grant funds or match to pay staff. The NSCHC requirements do not apply to Commission Support Grants or Commission Investment Fund Grants.

#### **4.17. Our program design involves job training and job creation, and we pay wages to people who are in training and initial phases of gainful employment. Are these beneficiaries of the program covered?**

No. Even though the beneficiaries receive a form of financial benefit as part of the program’s design, the positions are not covered because the benefit is the result of securing employment, which is a program outcome rather than a program activity. A person who receives some financial benefit through a national service grant but who is not otherwise engaged in grant activities is not in a covered position.

**4.18. Should my program perform checks on people who are otherwise not required to have an NSCHC? Will my grant cover the cost?**

Your program may choose to conduct NSCHCs on people in non-covered positions as an effective first step in prevention and safeguarding. You may include this as a grant operating cost or volunteer support expense in your grant budget proposal. Please note that access to FBI checks through Fieldprint is limited to those individuals in covered positions who are required by law to undergo a National Service Criminal History Check.

**4.19. What effect does someone leaving one national service program and beginning service or work in another have on NSCHC requirements?**

The program receiving the employee or participant must conduct a new NSCHC, even if there has been no break in service. However, if you are a recipient with multiple programs, and a member or employee moves from one of them to another, you only have to conduct a new NSCHC on that person if they (1) have a break in service that's longer than 120 days, or (2) if the person moves from a covered position that *doesn't* have recurring access to a vulnerable population to a covered position that *does* have recurring access to a vulnerable population. Please note that in the second example above, a completely new check would not be required, only the missing component would need to be conducted, that is, either the state or FBI check that was not conducted as part of the original check.

**4.20. What happens when a Senior Corps project relinquishes a grant and it is awarded to a replacement sponsor?**

The volunteers' criminal history checks may be transferred to the new sponsor with the volunteer files. The new sponsor is not required to recheck the volunteers if those files are complete and compliant. However, they must ensure that the checks met applicable regulations and correct any noncompliance they identify.

**4.21. Is the recipient program required to conduct a second NSCHC on an applicant who defers service for a year?**

Candidates who are selected and have cleared their NSCHC may defer or delay their start of service without undergoing a new NSCHC. Service delay or deferral is permitted for up to one (1) year, but the approved program design must include this option. CNCS recommends that programs develop a written policy on how to handle NSCHC for people who defer service.

**4.22. Our program receives thousands of applications to serve. Performing NSCHCs on everyone who applies for a position or to serve can be very burdensome and expensive. Is there a better way to manage this workload?**

Your program's NSCHC policy and procedures should identify the point at which applicants are checked. (FBI and State checks for FGP and SCP stipended volunteers must be initiated *before* participation in pre-service orientation. Such volunteers are already accruing hours toward their stipends. A NSOPW check must be complete before accruing any hours.)

**4.23. What is a break in service?**

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, so long as (1) the break in service does not exceed 120 days and (2) the original check is compliant for the covered position in which the individual will be serving. If the person did not originally have recurring access to vulnerable populations, but

will have such access in the new term of service (or work position), then you must conduct the additional required checks. You must retain documentation of the original check results.

It is a best practice to document any break in service and retain that documentation as a grant record. For example, if a Senior Corps 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.

#### **4.24. Does administrative leave, sick leave, summer breaks, or not actively working with a client constitute a break in service?**

No. A break in service means that a person is no longer providing service through or receiving salary from a CNCS-funded program. See FAQ 4.24 for more information on breaks in service.

#### **4.25. Is a new NSCHC required for national service participants who are serving in consecutive terms?**

It is not necessary to redo the NSCHC for individuals who serve consecutive terms of service, so long as (1) the break in service does not exceed 120 days and (2) the original check is compliant for the covered position in which the individual will be serving. If the person did not originally have recurring access to vulnerable populations, but will have such access in the new term of service (or work position), then you must conduct the additional required checks. This also applies to individuals whose service began on or after April 21, 2011 and who changed positions after January 1, 2013. You must retain documentation of the original check results.

## **5. Ineligible Individuals**

*The laws and regulations governing CNCS are very clear about four conditions that prohibit individuals from serving.*

### **5.1. What makes someone ineligible to serve or work on a CNCS grant-funded project in a covered position?**

- Anyone who is listed, or required to be listed, on a sex offender registry is ineligible to serve or work in a covered position.
- Anyone convicted of murder is ineligible to serve or work (as defined in 18 U.S.C. § 1111).
- Anyone who refuses to undergo the NSCHC is ineligible to serve or work.
- Anyone who makes a false statement in connection with a program's inquiry concerning the person's criminal history is ineligible to serve or work.

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.

In addition, 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 CNCS 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 not ineligible under the law.

## **5.2. What does it mean to be required to be listed on a sex offender registry?**

In some situations, a person may have been convicted of an offense and ordered by the court to register as a sex offender, but he or she did not register. Since the NSOPW check only identifies people who have registered, programs must also use candidates' criminal history information to check for any offenses for which the candidate was required to register under state law, but did not.

## **5.3. What if an applicant refuses to consent to an NSCHC?**

An applicant who refuses to consent to the NSCHC is not eligible to serve in a covered position.

## **5.4. What if an applicant makes a false statement about his/her criminal record?**

If a person makes a false statement in connection with an NSCHC, they are disqualified from working or serving in that national service program. Programs collecting criminal history information directly from the applicants are encouraged to clearly explain to applicants the consequences of a false statement. On April 30, 2015, [CNCS issued guidance](#) explaining what constitutes a false statement for the purposes of the NSCHC. (Click on "OGC Guidance on False Statement and Eligibility.")

## **5.5. Why does CNCS disqualify sex offenders and people convicted for murder but not those convicted of other crimes?**

The [Serve America Act](#) established that people who are registered, or required to be registered, on a state sex offender registry or National Sex Offender Public Website and people convicted of murder are ineligible to serve. Programs should exercise their own judgment in deciding whether, and to what extent, other types of offenses are relevant to the suitability of a person for a position.

## **5.6. What if a criminal registry check discloses a criminal conviction?**

You should give the applicant the opportunity to correct any inaccurate information and then make a judgment about whether to accept the applicant. Convictions for murder or for an offense that requires listing on the state's sex offender registry are automatically disqualifying.

## **5.7. Does the rule prohibit service or work on the basis of an arrest?**

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 CNCS-funded programs and activities. And as employers, recipients must also comply with Title 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.

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 fitness, or in some cases, eligibility, to serve with, or work for, a CNCS 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.



### **5.8. My program involves people with criminal histories. Is there anything additional that I must do?**

In situations where an ex-offender applies to serve or work, officials may take into consideration the type of service or program activity the applicant would do, the specific crime they committed, and the various supervisory levels that exist to manage the risks associated with an ex-offender's participation in the program. However, murder and conviction of any offenses that require registration on a sex offender registry are disqualifying offenses without exception.

### **5.9. If we de-select a person for an AmeriCorps position based on criminal history, can we refill that position?**

The refill policy applies. Recipients should consult [the guidance in the Terms and Conditions](#) referencing re-fill policy and changes in member positions.

## **6. When to Conduct an NSCHC**

*Best Practice: It is a best practice to conduct and complete all checks before individuals begin work or service.*

### **6.1. When must recipient programs conduct the NSOPW check?**

**NSOPW:** The results of the NSOPW must be reviewed and documented *prior* to the person beginning work or starting service (before work, service, or training hours are charged to the grant, federal or match). A person may *not* accrue hours towards their work or service without first having cleared the NSOPW component of the NSCHC. Checks that are not within these time frames are noncompliant.

### **6.2. When must recipient programs conduct the State Check(s) and FBI Check?**

**State Check(s) and FBI Check:** The criminal history information components (state of service check, state of residence check, and FBI checks) of the NSCHC must be initiated no later than the first day of the start of service or work. Checks that are not within these time frames are noncompliant.

For participants who are serving a consecutive term of service within the same program at the same recipient, and are moving to a position with access to vulnerable populations, the NSCHC components for people serving vulnerable populations must be added to their existing cleared criminal history check. A consecutive term of service means that there is not a break in service that exceeds 120 days.

Please see FAQ 2.6 for information on exceptions based on the Assessment Period.

### **6.3. What is the definition of “initiating” state and FBI checks?**

Initiating state and FBI checks is going one step further than getting permission to conduct an NSCHC. This could include, for example, fingerprinting, sending requests to a state repository to get checks, or having candidates fill out official forms for getting the required checks. You must be able to document how and when checks were initiated. You must have policies and procedures outlining how you initiate checks and apply them consistently.

### **6.4. How far in advance of participation in a recipient program should we conduct the NSCHC?**

Recipients may start conducting the NSCHC from the point of application to when the candidate begins to work or serve in a national service program. The regulations require that the NSOPW component be completed *before* a person starts service/employment, and that the state and FBI checks be initiated no later than the first day that hours are accrued, including pre-service orientation/training. It is a best practice to conduct and complete all checks before individuals begin work or service.

### 6.5. When must I supplement checks?

You must supplement checks anytime there is a change *from* episodic/no access *to* recurring access to vulnerable populations. When moving *from* a position that doesn't have recurring access to vulnerable populations *to* a position that does have recurring access to vulnerable populations, grant recipients must conduct the appropriate **missing** check(s). For example, if the member had a state of service and state of residence check conducted, the grant recipient would also need to conduct the FBI check if the member was moving into a covered position that had recurring access to vulnerable populations.

## 7. How to Conduct an NSCHC

*There are certain policies you must follow when performing NSCHCs, including verifying identity and maintaining documentation of the results. See all the steps below.*

### 7.1. What steps are required to conduct the NSCHC?

The [regulations](#) require that you:

- Verify identity against government photo identification
- Obtain prior written authorization from the person to perform the check
- Document the individual's understanding that selection is subject to the checks
- Determine the types of checks required and from where they will be obtained
- Pay for the checks
- Perform the NSOPW check on time
- Initiate the state/FBI check(s) on time
- Provide a reasonable opportunity for the prospective member or employee to review and challenge the factual accuracy of a result before action is taken to exclude the person from the position
- Keep the information confidential
- Accompany volunteers and employees with pending checks whenever they're in contact with vulnerable populations
- Maintain the results of the checks
- Document that you verified identity and conducted the required checks on time
- Document that you considered the results of the checks.

Any variance from the required procedure requires CNCS approval of an ASP. See the [Criminal History Check Resources](#).

### 7.2. How do I verify the identity of an applicant?

You must require the applicant to produce a government-issued photo identification card.

### 7.3. What types of documents are considered to be government-issued photo identification cards?

Government-issued photo identification cards include, but are not limited to, state drivers' licenses, non-driver photo IDs issued by states' Departments of Motor Vehicles (including the IDNYC, an ID issued through a New York City program), and federally-issued photo IDs, including official passports or a Native American Tribal ID from a federally-recognized tribal government.

### 7.4. What state or states must we check for a college student who is attending school and living in a state that is not his or her normal residence?

A person who applies to serve or work and is enrolled full-time in college is deemed to reside in the state where he or she lives for the purpose of attending the school, regardless of whether that home is on- or off-campus, and

whether or not that home is in the same state as the college. Programs may not opt to use any other basis for identifying the student's residence state, for example the student's family home. If a program wishes to use any other criteria to determine a college student's state of residence, it must get CNCS approval for an ASP.

**7.5. The cost of conducting an NSCHC can be a financial burden for a recipient. Can CNCS pay for these checks?**

The total cost of conducting the NSCHC is an allowable program operating cost (called a "volunteer support expense" in Senior Corps programs) and should be included in the budget. Recipients should project all cost components such as fingerprinting, notarization, mailing, and state repository and FBI fees.

**7.6. Are recipients allowed to use current year grant funds to pay NSCHC costs for members who will be enrolled in the next program year? If not, may recipients defer the costs and charge them to the new grant year (as budgeted) even if the expense was incurred prior to the project start date?**

NSCHC costs are allowable costs that are not required to be associated with a particular program year. The funds that a recipient has budgeted for checks are not limited to use during a particular period. They can be used to perform checks on any person in a covered position who needs the NSCHC at that moment in time. The costs are allocable to the recipient at that moment in time because checks are required upon application to serve/work. Waiting for a future budget to start the checks is not an option, and incurring the cost today and posting it against a future date would be improper accounting.

**7.7. Programs cannot charge an applicant for the cost of conducting the NSCHC. Does this mean that we can't charge an applicant and later reimburse him or her for this cost?**

Programs are permitted to ask a candidate to pay for the check(s), as long as the program reimburses the applicant for the cost of conducting the check(s). Except under very limited circumstances (for example, where programs have traditionally charged all volunteers for this cost) programs may not charge applicants for any of the component costs of conducting criminal registry checks. Senior Corps explicitly does not permit charging candidates for the NSCHCs.

**7.8. Do we have to conduct an NSCHC every year for each participant?**

No. The NSCHC is required only once for any person who applies to work or serve in a covered position. However, if a person has a break in service longer than 120 days, then the entire NSCHC must be done again. See FAQ 4.20-26

**7.9. What is accompaniment and how do we document that it happens?**

A person is accompanied when he or she is in the physical presence of a person who is cleared for access to a vulnerable population. One possible way to document accompaniment is to indicate on the covered person's timesheet 1) who accompanied during the access, 2) on what dates and hours, and 3) have the person who performed the accompaniment incrementally sign off and attest to the accuracy of the documentation. You should have policies and procedures that clearly describe your accompaniment guidelines and documentation procedures. The documentation should show the day, times, accompanier and individual accompanied.

**7.10. Why doesn't the rule prohibit a person from serving until the criminal registry results are received?**

It is a best practice to conduct and complete all checks before individuals begin work or service. The rule prohibits the start of service or employment until a person has been checked against the NSOPW. However, because statewide and FBI criminal registry check results often take weeks or longer to receive, the rules do not prohibit a person from serving/working while those checks are pending. While a program is waiting for the results of the state or FBI criminal registry checks, a person *may not* have unaccompanied access to vulnerable

populations. Individuals with pending checks must *at all times* be in the physical presence of someone who has been cleared for such access.

**7.11. Must the person who provides accompaniment have NSCHC clearance, or would some other type of clearance be accepted?**

An employee or representative of a placement site may provide accompaniment if that person's clearance was established under the placement site's rules. For example, if a participant is to serve in a nursing home, they may be accompanied by any staff the nursing home has cleared for access. Parents, spouses and guardians of a person in a vulnerable population may also provide accompaniment, as appropriate for the program design. If the person who provides accompaniment is in a covered position on a CNCS grant, then they must be cleared by CNCS NSCHC requirements in order to be qualified for access and serve as an accompanier.

**7.12. Does a person in a covered position need accompaniment if the NSOPW check has been conducted and results for one of the other checks (either state/s or FBI) have been received? Or must we wait for the results of all NSCHC components to end accompaniment?**

No, you do not need to wait for the results of all NSCHC components. This falls under a current [Pre-Approved ASP](#) that is available to all recipients. The pre-approved ASP states that **once you have conducted the NSOPW check AND** either 1) the results of the state check(s) are received that clear the individual for service or 2) the results of the FBI check are received that clear the individual for service, then accompaniment can stop. Look for pre-approved ASP #1 on the linked list above.

**7.13. Can we use pre-existing background checks?**

You may use background checks performed under standards other than those specified by CNCS only if CNCS grants you approval for an ASP. If your program routinely encounters candidates with pre-existing checks (for instance, teachers who have already had a criminal history check as part of their state licensing), you should describe the circumstances in an ASP request for consideration.

**7.14. Some of our employees have not been in covered positions but we conducted checks on them anyway, anticipating they might one day be assigned to such duties. Do we have to re-check them once they are officially assigned?**

If you performed a compliant check on or after November 23, 2007, there is no need to perform a new check when that person starts working in a covered position, as long as he or she has not had a break in employment since the check was performed. You are required to maintain the results of the check. If you only conducted some of the required components of the check, you must supplement the pre-existing checks with the additional required components.

**7.15. What options do we have when an individual's fingerprints are not readable?**

Most importantly, you should document that you attempted to conduct a fingerprint-based check. If you are working through a state repository or Fieldprint, they have a protocol to validate identification and perform a name-based FBI check, usually after at least two failed fingerprint attempts. See the FAQs on [the Fieldprint website](#) for more information. Use their required protocol and then document the process and results.

The [FBI website has a FAQ](#) that also addresses this question. If you are working outside of the state repository system or Fieldprint to obtain FBI checks, there are no FBI-sanctioned methods for obtaining a name-based FBI check. In this case, you must contact the state repository or Fieldprint to use their systems, or if prohibited from accessing the state repository system, see Pre-Approved ASP #3 in the document named [Current Pre-Approved ASPs](#) on CNCS' Knowledge Network for more information.

**7.16. Can grant recipients conduct the fingerprinting process in-house by rolling fingerprints for volunteers, members, or staff? (Example: A grant recipient may be located in a rural area and the fingerprinting location is far away.)**

CNCS does not provide guidance on who can roll prints. However, recipients who are considering this should keep these things in mind:

- The recipient assumes the cost/risk of rejected prints if fingerprints are not rolled correctly, or if staff is not trained properly on how to roll prints.
- The recipient assumes the risk for verifying identity.
- There are state laws that require anyone rolling prints to be certified by the state Department of Justice. Recipients need to know the laws in their state for this practice.

## **8. National Sex Offender Public Website (NSOPW.gov)**

*The National Sex Offender Public Website ([NSOPW.gov](https://www.nsopw.gov)) is a free resource for running national sex offender checks. The NSOPW is an Internet-based system operated by the U.S. Department of Justice. The system gathers data from all participating state-level sex offender registries plus those operated by Guam, Puerto Rico, the District of Columbia, and Tribal Governments. The NSOPW check is a requirement for all individuals serving in covered positions on a CNCS-funded grant, both volunteers and staff (see FAQ 4.1 for the definition of covered positions). The check must be conducted prior to the start of work, service, or accruing hours in any way. (Note that accruing hours also includes orientation and training time.)*

**8.1. May I use Advanced Search on the NSOPW.gov website to search for particular states?**

No. You must conduct a nationwide search of the NSOPW. A standard search provides nationwide data. **Do not** use the Advanced Search feature, which limits the geographic scope of the search and will result in a noncompliant check for which you will face financial consequences.

**8.2. If the FBI check captures crimes that are also identified on the sex offender registry and in state criminal history databases, why does CNCS require separate checks of the NSOPW and state criminal history information databases?**

The Serve America Act specified the required NSCHC components for individuals in covered positions ([42 USC 12645g](#)). Each component pulls data from a different database, and no single database of criminal history information is complete. The NSOPW links public state, territorial, and tribal sex offender registries in one national search site. An FBI check queries a different database than the NSOPW. In addition, the NSOPW is instantly accessible, but FBI and state repository check results can take days to weeks.

**8.3. What do I do if I find a person listed on the NSOPW who has the same name as an applicant?**

You must conduct a more in-depth inquiry to determine whether the person who appears on the NSOPW is your applicant or someone with the same name. Compare the registered offender's photograph from the NSOPW to the candidate's photo identification or person. The statewide criminal history search will also provide helpful information to help you determine if the candidate is the person on the registry.

**8.4. When I conduct the NSOPW check, should I include a middle name or suffix, e.g. Jr.?**

When conducting the NSOPW check, please follow the instructions on the NSOPW.gov website. (Currently, the NSOPW search asks for first and last name only.) Similarly, for name-based checks from a state repository, follow the instructions or guidance given by the state repository. Please confirm first and last name against a government-issued ID. Entering a middle name can often limit results.

**8.5. Do I need to check all names that the person has ever gone by, for example, a maiden name?**

You are only required to check a person's current legal name, as shown on their government identification.



NSOPW.gov only has spaces for the first and last name. Use the first and last name as shown on the person's government identification. Using a middle or maiden name along with a first or last name has the potential to change the results and should not be used in the same search. Multiple searches for different names (e.g., middle or maiden names) can be used, but must be conducted in separate searches. It is prudent to check any other names that the person has used.

#### **8.6. How do I document an NSOPW check?**

You must retain a record of the NSOPW search and associated results either by printing the screen(s) or by some other method that retains paper or digital images of the results, including the date when the search was performed. Please see [Current Pre-Approved ASPs](#) on the CNCS [Knowledge Network](#) for more on vendor search for the NSOPW.

#### **8.7. What steps should I take if I discover that a state's sex offender registry site is inoperative when I am conducting the NSOPW check?**

You are required to perform the NSOPW check until all state registries are cleared. The result will indicate whether or not any state systems were inoperable during that search. If the check is not complete, you must re-check the NSOPW before the person starts service to rule out the possibility that the applicant is registered in the state(s) system(s) that was not connected to the NSOPW system when you performed the first check. You may also supplement the first NSOPW check by checking the state registry/ies that are out of service. You should pay special attention to the applicant's state of residence and state of service.

#### **8.8. When was the date stamp added to the NSOPW website?**

The date stamp was added September 4, 2013. Please note that an on-time NSOPW check has always been a compliance requirement for the NSCHC, but the NSOPW website did not always contain a date stamp. Before it did, recipients were required to print or otherwise maintain the NSOPW results in a way that displayed the date and time.

#### **8.9. My volunteers are starting today. Are their NSOPW checks compliant if the time stamp is before their hours are counted?**

Yes, it is compliant. However, waiting until the day volunteers begin accruing hours to conduct the NSOPW check poses significant risks for your organization. For example, there is the potential for one or more state sex offender registries to be off-line for maintenance or not reporting for other reasons. These "downed sites" are not predictable, and you run the risk of not being able to complete a full search of the NSOPW system on time, and therefore being subject to financial consequences.

### **9. Statewide Criminal History**

*There are two kinds of state criminal history checks: state of service or work and state of residence. Not all individuals serving in covered positions will require both kinds of state checks. Anyone who resides in a different state from the grant recipient's state at the time of application will require a state of residence check, in addition to the state of service check. Grantees must use the official state criminal history repository in each state and territory. Covered positions with recurring access to vulnerable populations will require state check(s). Covered positions with no or episodic access to vulnerable populations require either the state check(s) or a fingerprint-based check from the FBI. See FAQ 3.1 for detailed information on what types of positions require which checks.*

#### **9.1. How do I find out which statewide criminal record repository/repositories to check?**

CNCS has provided a [list of official state repositories and approved alternatives](#). In January 2017, CNCS also published a new resource, the [State by State Guide](#). Click on the map or access the state or territory information from the drop-down menu under the map. The Guide gives you information on the NSOPW, state repositories and checks, and FBI checks in all states and territories and is searchable by state/territory.



### **9.2. How far back do state repositories maintain data and how many years must I check?**

You must obtain data as far back as the approved sources provide criminal history information. Many for-profit vendors limit the data that they provide, even if it was obtained from the designated repository, to the last seven years to ensure that they do not violate state laws that limit the release of criminal history check information for employment purposes. Such searches do not meet CNCS's requirements.

### **9.3. Does an FBI check satisfy the state criminal registry check requirement?**

No. For people in covered positions who were hired or enrolled prior to April 20, 2011, you are compliant if you conducted either an FBI fingerprint check OR a state criminal registry record check AND an NSOPW check. On and after April 21, 2011, persons with recurring access to vulnerable populations are required to have an NSOPW check, a state check, and a fingerprint FBI check (see FAQ 2.8 for the definition of vulnerable populations). Individuals with no recurring access or with episodic access to vulnerable populations are required to have an NSOPW check and either a state check OR fingerprint FBI check.

### **9.4. When the state registry offers name-based or fingerprint-based check options for searching for state criminal history information, what should I consider when making a choice?**

Either check is acceptable, as long as you make sure you select a check that is statewide, and that is not limited by either how far back records are maintained, or by type of record (for example, a felonies-only check is not acceptable). If you find that one check is more limited than the other, then you should conduct the check that is the least limited.

Fingerprint-based searches use unique fingerprints and are the most reliable method of obtaining criminal history records. Name-based record checks use biographic information (name, date of birth, gender, and social security numbers). This isn't the most reliable way to get a criminal history record. Name-based checks can result in false positives (records that are falsely attributed to the person) or false negatives (records belonging to the person are not identified), and it consumes staff time to verify.

### **9.5. We operate a nationwide program that places people in many states. Must we check each person against their state of residence in addition to every state in which we operate?**

Nationwide programs do not need to check more than two statewide repositories for a candidate. You must check the statewide repository for the state where the applicant resided upon application and the statewide repository for the state where the person will be assigned to work or serve.

### **9.6. The regulations require us to check *"the state in which the person resides at the time of application."* To comply, do we check the state for the candidate's legal residence or home of record, or where they physically lived when they applied to serve?**

The state where a candidate resides is the location that the person considers as his or her place of residence at the moment in time that he or she applies to serve or work. Although generally, that will be the candidate's home of record and legal residence, it might not be. There is no particular length of residence that a program is required to validate in order to establish the correct state of residence to check. Even a single day as a resident meets the test for place of residence. Programs may limit risk by also checking candidates' legal residence or home of record, but to exclusively use some other criteria, the program should seek a written approval from CNCS.

### **9.7. I run a child abuse registry check on my volunteers since they work with children and it is fitting for our program design. Is this a compliant check for the purposes of the NSCHC?**

Recipients should establish additional screening criteria that are appropriate for their program design and beneficiaries, *in addition to* the NSCHC baseline requirements. Child abuse registry checks are one example of checks

that can be used to *supplement* the minimum NSCHC requirements but running this check alone is not sufficient to meet the NSCHC requirements.

## 10. Federal Bureau of Investigation (FBI) Criminal History

*The FBI check is a fingerprint-based check of the nationwide FBI database. This check is a requirement for individuals in covered positions with recurring access to vulnerable populations. The check is an option for those with no or episodic access to vulnerable populations (grant recipients may choose to conduct either a state of service/state of residence check or the FBI check for people in covered positions with this level of access). See FAQ 2.8 for the definition of vulnerable populations. See FAQs 2.9 and 2.10 for clarification on recurring and episodic access.*

### **10.1. How do I obtain the FBI check?**

Most organizations will be able to receive an FBI check through their state repository, the same sources used for state checks. These CNCS designated sources are listed on [State Checks](#) page of the NSCHC Knowledge Network. If you can successfully obtain FBI checks from your state repository, you should do so. Organizations that cannot receive FBI checks from their state repositories may use Fieldprint, a contractor secured by CNCS to provide FBI checks for individuals in covered positions when organizations cannot successfully receive this service from their state repository. Instructions and training on using Fieldprint are on the CNCS Knowledge Network [FBI Checks](#) page.

### **10.2 What are Department Orders or personal review FBI checks? Do I need an alternative search procedure for this?**

Departmental Orders or personal review checks are FBI checks obtained by an individual for their personal use. More information is available at <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks>. If you are requesting checks directly from the FBI, you are using this method. CNCS does require you to [ask for an alternative search procedure](#) (ASP) to use this method. Results from this method will either indicate that the FBI has no criminal history record information concerning the person, or will provide a summary of the criminal history record information it does have, often known as a “rap” sheet.

These checks do not link a person’s name to the prints that were screened and results are returned to the person or a designated third party. For this method, you must ensure chain of custody. One way is to ask that the individual open the results in front of a selecting official for your program.

Due to the fact that it may take up to 12 weeks to receive results, we encourage you to use CNCS’s FBI Channeler, Fieldprint, which can generally provide results in 24 – 48 hours. The cost of one FBI check through Fieldprint is \$27.50. See FAQ 10.6 for more information, or the [Fieldprint FAQs](#) (Using Fieldprint as an FBI Channeler). You can also request an FBI check through your state repository, which may also provide faster results. (The list of CNCS-designated state repositories can be found [here](#); the State by State Guide, which provides more detailed information on conducting checks in each state, can be found [here](#).)

### **10.3. What does it mean to adjudicate an FBI criminal history check?**

The FBI will only send an individual’s full criminal history to organizations that are authorized by law to receive them, and those organizations may not further distribute those records unless they are authorized to do so. For this reason, neither CNCS nor state repositories may provide full criminal history information to recipients that have not been authorized to receive it. Instead, recipients get simple “pass/fail” or similar results, determined by comparing an individual’s criminal history against an established set of criteria. Organizations that receive FBI checks through another entity must either determine the adjudication criteria the entity uses or establish an adjudication agreement with the entity, to make sure that convictions for offenses which would make a person ineligible for work or service are identified. (See more about ineligibility criteria in FAQ 5.1.)

#### **10.4. Are we allowed to negotiate with state and local law enforcement to obtain checks at reduced cost?**

We have been informed that in some cases programs have been able to negotiate with state and local law enforcement to help them obtain checks at reduced cost, and we encourage recipients to initiate these discussions.

#### **10.5. May I have CNCS's Originating Agency Identifier (ORI) number to give to my state repository?**

CNCS does not have an ORI number. In an [October 31, 2011 memorandum](#), the FBI advised all state repositories that they must designate either an existing ORI number to classify NSCHCs under the Serve America Act, or request a unique ORI number form from the FBI to use for NSCHCs.

#### **10.6. What is a Channeler? May we use one? Do we need an alternative search procedure?**

Channelers are organizations that have been approved by the FBI to provide expedited fingerprint-based FBI checks. An example of a channeler is Fieldprint, the contractor CNCS selected to provide FBI checks for individuals in covered positions for recipients that can't get FBI checks from their state repositories. Organizations may use Fieldprint without an ASP when they can't get FBI checks successfully from their state repository.

Organizations may, without an ASP, use Channelers that are contracted by state repositories, because state repositories are compliant sources of FBI checks.

If you wish to use a Channeler to conduct Departmental Orders or personal review checks (that is, checks that go directly to the FBI, as described in 9.2 above), you must first have an approved ASP.

### **11. Alternative Search Procedure (ASP)**

*Alternative Search Procedures (ASP) are requested by recipients when they wish to vary from any of the specific NSCHC requirements at 45 CFR §2540.203. Recipients must submit a request for approval of its proposed alternative to CNCS in advance of varying from these procedures. Recipients can request ASPs when they are proposing procedures that are substantially equivalent or better than the NSCHC requirements or when they are prohibited by state law from complying with the NSCHC requirements.*

*ASPs are not granted for conducting the freely-available NSOPW.gov check. See pre-approved ASPs for vendor searches of NSOPW.gov.*

#### **11.1. Are there reasons why I might seek an ASP approval?**

Yes. If you wish to vary from any of the procedures required by regulation and are making a case for substantially equivalent procedures or data, you must obtain a written ASP approval from CNCS. You also need to submit an ASP when your organization is *prohibited by state law* from complying with the CNCS requirements. See FAQ 11.2 for more information.

#### **11.2. How do I request an ASP approval from CNCS?**

CNCS maintains [instructions for requesting an ASP](#) on the Knowledge Network page of [nationalservice.gov](#). Please complete and submit the form included in the guidance as part of your submission. Please also review the pre-approved ASPs in the document called "Current Pre-Approved ASPs" before you submit your request.

If you are submitting an ASP request because your organization is prohibited by state law from complying with the CNCS requirements, attach a copy of the statute or prohibition, along with a legal analysis from either the Attorney General or legal counsel. When appropriate, please include the rejection letter issued to you from the CNCS-designated repository.

#### **11.3. How long does an ASP approval last?**

The ASP is approved as long as the program's design and procedures and CNCS' policies and procedures remain

unchanged, even if the program operates under subsequent grants to fund the same program. If the ASP approval is limited, then it will be specified in the ASP determination from CNCS.

**11.4. Are there pre-approved ASPs that I can review before I apply to CNCS for one?**

Yes. See the [Current Pre-Approved ASPs](#) on CNCS' [Knowledge Network](#). Please note that these ASPs used to be known as "Blanket" ASPs.

**11.5. Can other programs use my ASP approval?**

No. ASPs are program-specific and not portable between different programs. ASPs that are approved for a national program are not portable to a similar program funded at the state level. If a circumstance develops where an ASP can apply to more than one program, our approval will be explicit in identifying where the ASP can be used. You may coordinate submission between a national program and state program.

**11.6. Before the FBI check requirements went into effect on April 21, 2011, we obtained an ASP permitting us to rely upon checks performed by a partner site, and also a vendor's checks. Is that ASP still valid?**

It depends. The existing ASP approval you received was based on a test of substantially equivalent information, using regulations in effect prior to April 21, 2011. Once the FBI check became a requirement in April 2011, the measure of "substantially equivalent" for programs with recurring access to vulnerable populations changed. If the program has such access, and the approved ASP does not include obtaining FBI information, then you must request a revised ASP.

**11.7. Does a VISTA project that once operated under a VISTA support and training grant and now operates under a VISTA program grant need a new ASP?**

If the recipient had a valid ASP for the staff funded under the original VISTA grant and the activities on the grant have not changed, a new ASP is not required.

**11.8. A school is performing the checks for us. Is there anything else we need to do?**

Yes. You must determine how the school (whether private or public) and/or its state licensing authority, are performing background or criminal history checks. If the types of checks, timing, adjudication criteria and other procedures being used, meet CNCS requirements, then your only obligation is to make sure that both you and CNCS have access to the records for oversight and monitoring purposes. The school may issue a clearance letter to the program rather than providing the actual check results. See ASP #2 in the [Current Pre-Approved ASPs](#).

If the procedures do not fully meet CNCS's requirements, you must [request an alternative search procedure](#). Please note that you cannot pass along the responsibility for making a written documentation that you have checked photo identification and considered the results of the checks as you select a person to serve or work under your national service program. Only a program's officials with selection authority may establish that required written documentation.

**11.9. My program works with a school that conducts some or all of the components of the NSCHC on its employees and volunteers (including national service participants), but doesn't permit outside parties to review the results of the criminal history check. How can we satisfy the documentation requirements if we are not permitted to review these results?**

Your program will need to establish written assurance that:

- the correct checks from the designated sources were conducted on time;
- the clearances meet CNCS baseline eligibility criteria; and
- you will receive and maintain the results of the check and or clearance issued by the school.

This falls under our Current Pre-Approved ASPs on clearances issued by partners and possibly also state law prohibiting examination of results by a third party. See ASPs #2 and #4 in the [Current Pre-Approved ASPs](#) for more information.

## 12. For-profit Background Check Vendors

*Recipients of CNCS grant funds may choose to conduct NSCHCs using the services of a vendor, but they should be aware of the risks of doing so. For example, vendors might not be able to check the CNCS-approved sources, and using a vendor may result in noncompliant checks. Recipients should read the information below very carefully if they are considering using, or are currently, using a vendor for the NSCHC.*

### **12.1. I purchase criminal history checks from a vendor. Do I need to request an ASP?**

The use of vendors is not prohibited. However, you bear the risk if a check conducted by a vendor does not meet CNCS requirements. It is your responsibility to fully understand what checks your vendor conducts and what sources it uses for criminal history information. If you are using a vendor to perform the sex offender search, the vendor must use [www.NSOPW.gov](http://www.NSOPW.gov) as its source. See the [Current Pre-Approved ASPs](#) for more information on NSOPW searches by a vendor.

Many vendors conduct less-than-statewide checks (for example, county of residence checks), and characterize those single-county checks as superior to state repository searches. However these do not meet NSCHC requirements. If your vendor isn't using CNCS-recognized repositories, you may not use them to satisfy the CNCS state check requirements.

### **12.2. When I look for a vendor that meets CNCS's requirements for the NSCHC, what should I consider?**

We have developed [Vendor Guidance](#) that should help you to evaluate the services a vendor offers against our requirements. It also tells you the details you should give to CNCS when you submit an ASP request involving vendors.

### **12.3. Does CNCS maintain a list of "approved" background check vendors?**

CNCS does not approve or disapprove commercial entities that provide background or criminal history checks. If you wish to use a commercial provider, you must make sure that the vendor will meet all NSCHC requirements. If any component of the search or procedures varies from the regulations, a valid search has not been conducted.

### **12.4. Why doesn't CNCS maintain a list of approved background check vendors?**

Commercial providers typically offer a menu of services, and the client can purchase one or more services that may or may not meet CNCS's standards. Therefore, there is no way for CNCS to predict or ensure which services a recipient will procure.

In addition, vendor services may change at any time and many vendors do not have access to the designated statewide systems. We have also found that many vendors limit their reports to seven to ten years of information – a limitation does not meet the NSCHC requirements. Given the highly variable nature of the services provided by commercial providers, and the prohibitions against the government endorsing one commercial entity over another, it is unlikely that CNCS will develop a list of approved commercial background and criminal history check providers.

## 13. Documentation for NSCHC Requirements

*CNCS has very specific documentation requirements for National Service Criminal History Checks.*

### **13.1. What documentation must I maintain for the NSCHC process?**

Grantees must follow these steps to document the NSCHC Process:

- ☐ document that they verified the individual's identity through government-issued photo identification (e.g. ID number, photocopies of ID, etc.)
- ☐ document that they obtained written consent from candidates to perform checks (e.g. as part of service agreement)
- ☐ document the candidate's understanding that his or her position is contingent on eligibility determined by the results of the NSCHC (e.g. as part of service agreement)
- ☐ document that they performed a nationwide NSOPW search before the candidate begins work or service (see maintain check results below for additional requirements)
- ☐ document that they initiated additional check component(s) on time: State(s) and/or FBI checks must be ordered no later than the first day of the start of service or work. (e.g. mail receipts, fingerprinting, etc.)
- ☐ document that they provided accompaniment while checks were pending when the service or work involves vulnerable populations (children 17 and younger, adults age 60 and older, and individuals with disabilities) [see FAQs 13.4; 7.9]
- ☐ document the date of receipt when check results are returned to their program (e.g. on a checklist for documents)
- ☐ document that they considered the check results when officially selecting individuals to serve or work, as cleared candidates can now become fully instated (e.g. sign and date document, create cleared memo, etc.)
- ☐ maintain check results, while providing confidentiality (see FAQs 13.2, 13.3, 13.7, 13.8)
- ☐ NSOPW check results including adjudication of any name hits
- ☐ State check results for state of residence check and state of service check, as applicable
- ☐ FBI check results, as applicable

The sample checklist above and additional resources can be found on the NSCHC Knowledge Network page, under "Checklists:" <https://www.nationalservice.gov/CHCChecklists>

### **13.2. The regulations require us to retain the results of an NSCHC. What documents constitute results?**

The results of an NSOPW check will be a dated screen printout of an executed, nationwide search. If these paper-based results indicate name-based hits, they should be marked to document that you have verified the candidate is not among the registered sex offenders identified through the nationwide name-based NSOPW search. Please also see the [Current Pre-Approved ASPs](#) on the CNCS Knowledge Network for more information on vendor search of the NSOPW.

The results of a state repository criminal history check will vary by state. Some states will release a "rap sheet" listing all arrests and offenses, while others may provide a summary record reflecting cleared/not cleared based on



screening criteria specific to that state. You must become familiar with the type of information that the states provide in their results, and keep that document as the result of the state level check.

The FBI check results will come in one of two forms. If the candidate gets his/her own record from the FBI using the personal review or Departmental Orders process, they will either get a “no record found” result, which means their fingerprints were not found in the FBI system, or they will get a rap sheet result that lists all reported offenses.

If you get the FBI check through a state repository or Fieldprint, then the result will be an adjudicated results summary that indicates whether a person cleared a set of screening criteria used by the agency. In these cases, the FBI will not provide a rap sheet. You should be familiar with the screening criteria used. Information on Fieldprint’s criteria is included in CNCS’s Guide to Using Fieldprint, available under the [FBI Check](#) heading on the NSCHC Knowledge Network.

Note that many state repositories provide checks which may either always, or as an option, sometimes at higher cost, include an FBI record check. Therefore, it is critical to first establish a clear, documented understanding of the type of check results you are getting.

### **13.3. The results we receive do not appear to be actual criminal history records but rather summaries and conclusions on the person’s suitability. Should we ask the repository for the detailed record?**

State repositories issue either “rap sheets” or summary, adjudicated results. Adjudicated results typically present a “cleared,” “not cleared,” “undetermined” or similar summary result. You should contact the repository to obtain a list of disqualifying offenses and explanations for what the responses mean. If someone does not clear, you must determine if the disqualifying offense was one that CNCS uses to determine eligibility, or if it is an offense that your program considers to be disqualifying. Except when the FBI releases the NSCHC result directly to the person who is being checked, the FBI checks that are released to our recipients by state repositories and other authorized governmental bodies (including Fieldprint) are always adjudicated summary results.

### **13.4. How do we document accompaniment?**

For more guidance on documenting accompaniment, see FAQ 7.9.

### **13.5. May we retain only electronic records rather than paper files?**

There is no rule requiring criminal history check records to be paper-based. You may save scanned images of criminal history check results and the associated documents, rather than paper documents. A program using an electronic record system should make sure that it meets all expectations for verifiable and auditable records. Given the critical nature of the date when the NSCHC was performed or initiated, the program should make sure that any record – whether paper or electronic – clearly and without doubt establishes when the checks were performed, by whom, and from where the information was obtained.

### **13.6. What if my state either doesn’t allow my program to maintain the results of the criminal history checks or limits the amount of time that results can be maintained?**

The regulations require you to retain the NSOPW and criminal history information results. If state law prohibits or limits you in retaining this documentation, please follow the instructions in the [Current Pre-approved ASPs](#) on maintaining alternative results.

### **13.7. How should we store, secure, and file the results of the NSCHC?**

NSCHC information should be maintained in a secure location under the control of an authorized records custodian. Only people who have an official need to review the information should have access to the records.

**13.8. Must I store NSCHC records at the service site, or may I centralize the records at our headquarters?**

Records may be stored at any secure location, so long as they are accessible for timely routine use by the recipient, and for oversight and monitoring by CNCS, without undue cost or delay.

**13.9. What other documentation must I maintain for compliance?**

For guidance on documenting the annually required NSCHC e-course, please see FAQ 1.5.