



Systems Guide for Criminal Records Checks

Rule 5101:2-12-26: Nonconviction Statement
and Criminal Records Checks

*"My parents are counting on you to
keep me with safe people when I'm
away from them."*

What do the rules say?

The key to maintaining compliance with licensing rules is to first read and understand them. In examining any noncompliances that your program has had with criminal records checks, begin by reviewing Ohio Administrative Code Rule 5101:2-12-26: Nonconviction Statement and Criminal Records Checks.

The rule can be found at:

<http://codes.ohio.gov/oac/5101:2-12-26>

After you've read the rule, ask yourself the following questions:

- Do I understand all parts of this rule?
- Do I understand why I was cited as being out of compliance with this rule?
- Have the rule requirements been discussed with staff who are responsible for maintaining compliance with them?
- Has the program designed and implemented any systems to achieve and maintain compliance with this rule?

The following page lists the most commonly cited serious risk noncompliances related to nonconviction statements and criminal records checks. Following each noncompliance is a reference to a system that your program could use that will help you achieve and maintain compliance. One or more systems may be recommended. Choose the one that would work best for your program.



Please contact the Child Care Policy Help Desk or your licensing specialist if you have questions regarding licensing rules. The Help Desk number is 1-877-302-2347. Press option 4.



Rule 5101:2-12-26 Criminal Records Checks

What are the most common serious risk noncompliances cited by licensing specialists?

Has your program had any of the following?

- » The administrator allowed an individual to begin employment prior to signing the JFS 01328, "Statement of Nonconviction." Refer to Systems Two and Three.
- » The administrator allowed an individual to begin employment without having BCI and FBI records checks requested. Refer to Systems Two and Three.
- » The administrator allowed an individual to continue employment without BCI and FBI results on file within 30 days of hire. Refer to System Two.
- » The administrator rehired an individual and did not obtain an updated "Statement of Nonconviction" and/or have an updated BCI and FBI records check requested. Refer to System Two.
- » The administrator accepted a records check completed by a previous employer, and an updated request was not completed. Refer to System Two.
- » The administrator allowed an individual who did not have records check results on file to be left alone with children. Refer to System One.
- » The administrator did not review the results of the records check for prohibited convictions. Refer to System Two.
- » The administrator allowed someone with a prohibited conviction to continue employment at the program, and no documentation of rehabilitation was on file. Refer to System Two.
- » The administrator failed to check the file of an individual from an outside entity contracted to provide services (such as speech therapy, computer training, dance or transportation drivers) to ensure that the file included a BCI or FBI records check. Refer to System Four.

Rule 5101:2-12-26 Criminal Records Checks

System One

Develop and implement a procedure to ensure that children are not left alone with individuals who do not have requested results on file.

Tracking:

- Use a color-coded name system so that all staff are aware of which individuals are permitted to be alone with children. Hang a list in each room with staff names written in different colors, indicating the following status:
 - » Green = staff can be counted in the ratio and left alone with children
 - » Yellow = staff can be counted in the ratio, but because results are not yet on file, they cannot be left alone with children
 - » Red = staff are permitted to be in the program but cannot be counted in the ratio or left alone with children
- The color-coding system could also be used by the administrator when developing the staff schedule. Those in yellow cannot be scheduled in rooms by themselves, although they can be used to count in the ratio. Anyone in red should not be scheduled to count in the ratio.

Training:

- Explain to staff how to use the color-coding system.
- Prior to leaving a room, staff should refer to the color list to ensure room coverage.
- If a staff person remaining in the room is coded yellow or red, they may not be left alone with the children.
- The staff should then follow the center's established policy for room coverage. Some suggestions for the policy include:
 - » Inform administrator/floater of current staffing pattern and request assistance.
 - » If a staff person needs to leave the room to obtain supplies or deliver a message to the office, have the yellow- or red-coded individual do this, instead of the green-coded individual.
- Instruct the individual who is responsible for developing the schedule that only staff with the same color codes should replace or fill in for each other.

Monitoring:

- As the administrator receives record check results, he or she should update all staff lists to ensure that they are appropriately color-coded. Additionally, new hires should be added to this list (and color-coded) when they begin employment. The explanation of the system should be included in staff orientation.
- The administrator should periodically do room checks and have the staff in the classrooms explain how the color-code system is supposed to be used. Drills could be conducted randomly, in which the administrator presents a scenario that would leave the room with inappropriate coverage. Staff would be required to explain how they would handle the situation.

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System Two

Use a new hire checklist as a visual reminder of completed and outstanding paperwork related to BCI/FBI requirements. Develop a system for completion and location of the checklist.

Tracking:

- Include on the checklist:
 - » Individual's name
 - » Hire date
 - » Date that the JFS 01328, "Statement of Nonconviction," was signed
 - » Date that BCI/FBI records checks were requested
 - » Date that BCI/FBI results are due back on file (30 days from hire date)
 - » Date that results were received and reviewed for prohibited convictions

Training:

- The individual(s) responsible for maintaining staff files should know the following:
 - » Who is responsible for completing the checklist and ensuring that paperwork is placed in the employee's file
 - » Where the checklist should be maintained to ensure that it is updated.
- To make sure that proper procedures are followed, centers could do the following:
 - » Keep paperwork in a different-colored file until it is completed, as a visual reminder.
 - » Keep files out of the file drawers until they are completed.
 - » Write the new employee's name on the calendar 20 days after hire. On the 20th day, check the employee's file to see if results have been received. If not, contact BCI to obtain information regarding the status of the request. This way, you will still have 10 days to obtain the results prior to the 30-day deadline.
- How to determine, using the JFS 01328, "Statement of Nonconviction," whether a conviction noted on the records check results is a prohibited conviction
- How to read the records check results to ensure that the date on the results corresponds to the employee's current hire date. (Programs cannot use previous results if the employee was previously employed by the center, and they cannot accept results from any other employer.)

Monitoring:

- The administrator needs to ensure that the checklist system is being used for each new hire. On the first day of each month, the administrator should verify that a file has been developed for any new employees hired during the previous month. He/she will verify that the new hire's date is written on the calendar 20 days after the hire date, and that any paperwork received has been placed in the file.

System Three

Hiring interviews include information regarding records check requirements.

Tracking:

- At the hiring interview, give prospective employees the following:
 - » A copy of the JFS 01328, "Statement of Nonconviction." If the candidate is unable to sign due to a prohibited conviction, the administrator should either terminate the interview or determine if they want to consider the candidate for rehabilitation. The administrator may use the JFS 01206, "Rehabilitation Criteria," to document rehabilitation.
- Use the JFS 01222, "Criminal Records Check Procedures for Child Care Centers and Type A Homes," or develop a similar checklist that includes:
 - » Location and directions from the program to the WebCheck agency
 - » Hours of operation
 - » Cost and who is responsible for the cost
 - » The mailing address where the results should be sent

Training:

- The administrator and any other individuals who are part of the interview process should be aware of the rule requirements and explain the importance of these requirements to prospective employees.

Monitoring:

- Periodically review the information regarding the WebCheck agencies to ensure that the location, hours and cost are accurate. Ensure that all forms are current and that any rule revisions have been included in distributed information.

System Four

Develop a checklist to be used for individuals from contracted agencies who bring staff files with them to the program. Prior to contracting with outside entities, determine who will be responsible for obtaining the required paperwork.

Track:

- Use the staff paperwork checklist to review the file the individual brings to the program. The checklist should include:
 - » The individual's name
 - » Date hired by the contracted agency
 - » Date that the JFS 01328, "Statement of Nonconviction," was signed
 - » Date that BCI/FBI records checks were requested
 - » Date that BCI/FBI results are due back on file (30 days from the date the contracted agency submitted them)
 - » Date that results were received and reviewed for prohibited convictions

Training:

- The individual responsible for reviewing the file should be instructed on the following:
 - » If the JFS 01328, "Statement of Nonconviction," and verification that criminal records checks have been requested are not in the file, the individual cannot begin work at the program.
 - » If the individual will be left alone with children, the criminal records check results must be on file and approved.
 - » If the criminal records check results have been requested but not yet returned, the individual can begin working at the program but cannot be left alone with children.



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or your licensing specialist if you have questions
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Call 1-877-302-2347, option 4.

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