NYS OPWDD Required Background Checks

Type of Check	New York State Law	Regulatory Reference	Requirement applies to *persons who have the potential for regular and substantial contact with individuals receiving services as listed below*	Submitted To
Staff Exclusion List (SEL)	Social Services Law Section 495	OPWDD 14 NYCRR Section 633.24	• All providers (certified, operated or funded by OPWDD) • Custodians-Employee, administrator, consultant, intern, volunteer or contractor • Family care provider, adult who lives in the home of the family care provider, family care respite/substitute providers and adults who live in the home of a family care respite/substitute provider • Registered provider employees (submitted by the registered provider)	Submitted to the Justice Center
Criminal Background Check (CBC)	Vol. aper. Mental Hygiene Law Section 16.33 Executive Law Section 845-b DDSOO Civil Service Law Section 50(4) Labor Law Section 201-a	Vol. aper. OPWDD 14 NYCRR Section 633.22 JUSTICE CTR 14 NYCRR Part 701	• All providers (certified, operated or funded by OPWDD) • Employees • "Deemed employees" - a person who is "used by the agency or provider of services or registered provider to provide services substantially similar to those that are or could be provided by someone who is directly employed by the agency or provider of services. Such parties shall be deemed to be employees of the agency or provider of services and shall include, but not be limited to, those who are employed by other entities on behalf of or for the benefit of the agency or provider of services" • Volunteers • Family care provider, adult who lives in the home of the family care provider, family care respite/substitute providers and adults who live in the home of a family care respite/substitute provider • Operators of providers of services who are natural persons* • Registered provider employees (submitted by the registered provider)	Submitted to the Justice Center
Mental Hygiene Law (MHL 16.34)	Mental Hygiene Law Section 16.34	OPWDD 14 NYCRR Section 633.24	• All providers (certified, operated or funded by OPWDD) • Employees • "Deemed employees" - a person who is "used by the agency or provider of services or registered provider to provide services substantially similar to those that are or could be provided by someone who is directly employed by the agency or provider of services. Such parties shall be deemed to be employees of the agency or provider of services and shall include, but not be limited to, those who are employed by other entities on behalf of or for the benefit of the agency or provider of services" • Volunteers • Registered provider employees (submitted by the registered provider)	Submitted to OPWDD
Statewide Central Register of Abuse and Maltreatment (SCR)	Social Services Law Section 424-a	OPWDD 14 NYCRR Section 633.24	• Programs certified or operated by OPWDD only • Employees, volunteers, contractors, consultants • Family care provider, adult who lives in the home of the family care provider, family care respite/substitute providers and adults who live in the home of a family care respite/substitute provider Note: Providers may submit requests for current employees (no more often than once in any six month period). Providers are not required to submit requests for current employees.	Submitted to the SCR via OCFS

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SCR- Check-Registered Providers	Social Services Law Section 424-a	OPWDD 14 NYCRR Section 633.24	• Prospective employees of registered providers. Registered providers are contractors of OPWDD or a voluntary agency which supply transportation services or staff (e.g bus company, temp agency) Note: this only applies to registered providers which provide services to programs certified or operated by OPWDD Note: Registered providers submit SEL, CBC, MHL 16.34 and SCR requests for employees in lieu of OPWDD or the voluntary provider with which it contracts	Submitted to OPWDD

Breaks in service/seasonal employees for checks - If someone has a **scheduled** break in service of up to one year, new background checks are not required. Examples are a seasonal employee who works only in the summer and is expected to return the following summer and an employee with scheduled maternity leave of up to one year.

For CBC and MHL 16.34 - See 14 NYCRR 633.22(d) for additional information regarding who has to be checked, including a list of types of employees/operators presumed to have the requisite contact.

If a voluntary agency does not have any operating certificates, they cannot do the SCR check for their employees. If a voluntary agency operates both certified and non-certified services, and the agency considers that employees in some or all of its non-certified services have the potential for regular and substantial contact with individuals in their certified services, the agency should request the SCR check for these employees. This determination by the agency should depend on the employee's potential for regular and substantial contact in certified programs.

Family Support Service (FSS) programs are required to request SEL, CBC and MHL 16.34 checks. Since FSS programs are not certified, SCR checks are not required (unless the FSS program is operated by OPWDD).

*633.22(b)(7) Natural person. A human being, as distinguished from an artificial person created by law (e.g., a corporation).