



IDAHO DEPARTMENT OF
HEALTH & WELFARE

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MEMORANDUM

TO: Criminal History Unit Stakeholders

FROM: Criminal History Unit, Department of Health & Welfare

SUBJECT: Contracted staff that provides services in agencies/facilities where Department of Health & Welfare background checks are required.

Due to recent instances in which the verification of Department clearance status of contracted staff at agencies/facilities has been brought into question, the Criminal History Unit was asked to review IDAPA 16.05.06, *Criminal History and Background Checks*, and issue an interpretation regarding the applicability and requirements of the agency/facility and the contractor in regards to the clearances of contracted staff.

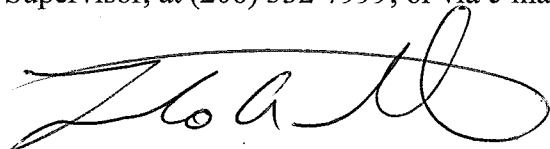
The Department's Criminal History Unit is aware of the difficulty experienced by both agencies/facilities and contractor agencies in meeting the expectations of the Department regarding the verification of Department clearance status of contracted staff that provides services at those facilities. With this interpretation, the Criminal History Unit affirms the Department's commitment to support the background check needs of both the agencies/facilities and their contractors without imposing or creating difficult procedures that hamper their efficiency yet do not compromise the safety of the vulnerable under the care of the agencies/facilities.

Therefore, the Department's Criminal History Unit interprets the rule as follows:

- Contractor staff is an employee of their employer. Contractor staff is not an employee of the agency/facility where they are working as contractors. The employer requirements in IDAPA 16.05.06, *Criminal History and Background Checks*, apply to the contractor in this arrangement.

- As prescribed in the applicable program rules, agencies/facilities that contract staff to provide services at their site bear the ultimate responsibility to ensure that permanent staff and contractors have been processed for the Department background check if the contracted staff will be in any position to provide services to clients or residents of the facility. This interpretation does not relieve the agency/facility from the specific requirements prescribed in the statutes or rules that govern or regulate the agency/facility.
- Agencies/facilities and contractors are at freedom to define their mutual contractual obligations on their own. The Department will not participate in, influence or oversee such negotiations.
- As a best practice, the Department **recommends** that facilities that contract staff obtain access to the contracted staff via the Criminal History Unit website. It will no longer mandate that such action takes place.
 - When an agency/facility requests access to the contracted staff “Notice of Clearance” by adding their Criminal History website agency id number to said contacted staff, the requirements in IDAPA 16.05.06.300.02 do not apply to said action.

Questions regarding this document should be referred to Fernando A. Castro, Program Supervisor, at (208) 332-7999; or via e-mail at castrof@dhw.idaho.gov.



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