



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 5200.05

December 21, 2022

Director, J-1

SUBJECT: Child Care Background Check Program

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (b), and in accordance with the guidance of References (c) through (t), establishes the Defense Health Agency's (DHA) procedures to perform background checks on individuals whose primary duties require regular contact with children under the age of 18.

2. APPLICABILITY. This DHA-AI applies to DHA and DHA Components (activities under the authority, direction, and control of DHA) and all DHA personnel to include assigned, attached, or detailed active duty, reserves, or National Guard personnel, federal civilians, contractors when required by the terms of the applicable contract, volunteers, students, non-appropriated fund employees and other personnel assigned temporary or permanent duties at DHA and DHA Components.

3. POLICY IMPLEMENTATION. It is DHA's instruction, pursuant to References (d) through (o), that:

a. All DHA personnel whose primary or secondary duties require regular and recurring contact with children under the age of 18 must undergo an initial criminal history background check and reverifications every five years pursuant to this DHA-AI. Examples of position types subject to such background checks and reverifications include, but are not limited to: general pediatricians, pediatric surgeons, pediatric dentists and hygienists, pediatric geneticists, pediatric nurses, neonatologists, family and women's health providers, child psychologists, child psychiatrists, clinical social workers, physical therapists, speech-language pathologists, forensic health care examiners, play therapists, clinical support staff (including residents), and Family Practice and Emergency Medicine personnel. All others will observe line-of-sight supervision (LOSS).

b. In accordance with section 3.6 of Reference (i), DHA personnel are required to annually self-report that they have not been convicted of any crimes or offenses that would automatically or presumptively disqualify them from a favorable determination. DHA personnel are also required to immediately self-report any changes in their criminal history that would presumptively or automatically disqualify them from a favorable determination (per section 3, paragraph 3.2.a. of Reference (i)).

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. PROPONENT AND WAIVERS. The proponent of this publication is the Director, Administration and Management (J-1). When Activities are unable to comply with this publication the activity may request a waiver that must include a justification, including an analysis of the risk associated with not granting the waiver. The activity director or senior leader will submit the waiver request through their supervisory chain to the Director, J-1 to determine if the waiver may be granted by the Director, DHA or their designee.

7. RELEASABILITY. **Cleared for public release**. This DHA-AI is available on the Internet from the Health.mil site at: <https://health.mil/Reference-Center/Policies> and is also available to authorized users from the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/SitePages/Home.aspx>.

8. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with Reference (c).

9. FORMS. The following Standard forms (SF) are available from: <https://www.gsa.gov/reference/forms#>.

a. SF 85, Questionnaire for Non-Sensitive Positions

b. SF 86, Questionnaire for National Security Positions

c. DD Form 2981, "Basic Criminal History and Statement of Admission (Department of Defense Child and Youth (C&Y) Programs)"

PLACE. RONALD.J
OSEPH.114682390
0

Digitally signed by
PLACE. RONALD.JOSEPH.11468
23900
Date: 2022.12.21 15:07:12 -05'00'

RONALD J. PLACE
LTG, MC, USA
Director

Enclosures

1. References
2. Responsibilities
3. Procedures
4. Performing Duties Under LOSS

Appendices

1. LOSS Authorization Template
2. LOSS Statement of Understanding Template
3. Sample-LOSS Badges

Glossary

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....6

ENCLOSURE 2: RESPONSIBILITIES.....7

 DIRECTOR, DEFENSE HEALTH AGENCY7

 DIRECTOR, ADMINISTRATION AND MANAGEMENT 7

 ASSISTANT DIRECTOR, ADMINISTRATION AND MANAGEMENT

 CHIEF, DEFENSE HEALTH AGENCY ADMINISTRATIVE SECURITY DIVISION7

 CHIEF, DEFENSE HEALTH AGENCY HUMAN CAPITAL DIVISION OR CHIEF,
 CIVILIAN HUMAN RESOURCE AGENCY.....8

 CHIEF, DEFENSE HEALTH AGENCY HEADQUARTERS SUPPORT DIVISION..... 8

 DEFENSE HEALTH AGENCY HEADQUARTERS, MILITARY MEDICAL
 TREATMENT FACILITY, DENTAL TREATMENT FACILITY, VETERINARIAN
 TREATMENT FACILITY, DEFENSE HEALTH AGENCY REGION, SMALL
 MARKET AND STAND-ALONE MILITARY MEDICAL TREATMENT FACILITY
 ORGANIZATION DIRECTORS OR ASSISTANT DIRECTORS 8

 AUTHORIZED MANAGEMENT OFFICIAL 9

 DEFENSE HEALTH AGENCY PERSONNEL SECURITY OFFICE SECURITY
 SPECIALIST FOR ALL DEFENSE HEALTH AGENCY HEADQUARTERS, DIRECT
 REPORTING MARKETS, SMALL MARKET AND STAND-ALONE MILITARY
 MEDICAL TREATMENT FACILITY ORGANIZATION, DEFENSE HEALTH
 AGENCY REGIONS, AND MILITARY MEDICAL TREATMENT FACILITIES 9

 CANDIDATES HAVING CLEARED A CHILD CARE CHECK 10

ENCLOSURE 3: PROCEDURES.....12

 REQUIREMENTS FOR CRIMINAL HISTORY BACKGROUND CHECKS.....12

 PRE-SCREENING AND ASSESSMENTS 13

 TYPES OF BACKGROUND CHECKS..... 13

 CONDUCTING BACKGROUND CHECKS 14

 SUITABILITY AND FITNESS DETERMINATIONS 14

 RECIPROCITY OF BACKGROUND CHECKS 15

 REVERIFICATIONS16

 ANNUAL SELF-CERTIFICATIONS..... 17

ENCLOSURE 4: PERFORMING DUTIES UNDER LINE OF SIGHT SUPERVISION18

 GENERAL.....18

 REQUIREMENTS 18

APPENDICES

 1. LINE OF SIGHT SUPERVISION AUTHORIZATION TEMPLATE..... 20

2. LINE OF SIGHT SUPERVISION STATEMENT OF UNDERSTANDING
 TEMPLATE 22

3. SAMPLE LINE OF SIGHT SUPERVISION BADGES..... 24

GLOSSARY25

PART I: ABBREVIATIONS AND ACRONYMS..... 25

PART II: DEFINITIONS.....26

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013, as amended
- (c) DHA-Procedural Instruction 5025.01, “Publication System,” April 1, 2022
- (d) DoD Instruction 5200.02, “DoD Personnel Security Program (PSP),” March 21, 2014 as amended
- (e) Executive Order 13467, “Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information,” June 30, 2008
- (f) Executive Order 13488, “Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust,” January 16, 2009
- (g) DHA-Administrative Instruction 5200.04, “Personnel Security Program,” April 27, 2022
- (h) DoD Instruction 1402.05, “Background Checks on Individuals in DoD Child Care Services Programs,” September 11, 2015, as amended
- (i) DoD Manual 1402.05, “Background Checks on Individuals in Department of Defense Child Development and Youth Programs,” January 24, 2017
- (j) DoD Instruction 6060.02, “Child Development Programs (CDPs),” August 5, 2014, as amended
- (k) DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- (l) DoD Instruction 5505.11, “Fingerprint Reporting Requirements,” October 31, 2019
- (m) United States Code, Title 34
- (n) Code of Federal Regulations, Title 5
- (o) United States Code, Title 42
- (p) Deputy Assistant Secretary of Defense for Civilian Personnel and Policy Memorandum, “Responsibilities Under the Department of Defense Suitability and Fitness Adjudications for Civilian Employees Programs,” August 26, 2013¹
- (q) DoD Instruction 1400.25, Volume 731, “DoD Civilian Personnel Management System: Suitability and Fitness Adjudication for Civilian Employees,” August 24, 2012
- (r) DoD Manual 5400.11, Volume 2, “DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan,” May 6, 2021
- (s) DoD Manual 6400.01, Volume 1, “Family Advocacy Program (FAP): FAP Standards,” July 22, 2019
- (t) DoD Instruction 4000.19, "Support Agreements," December 6, 2020

¹ This reference can be found by calling the DHA Personnel Security Office at (703) 275-6038.

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA, will:

a. Ensure compliance with this DHA-AI by requiring background checks, reverifications, self-certification, and self-reporting of changes in criminal history for all DHA personnel as described in Enclosure 3 and the applicable statutes and regulations.

b. Designate an Authorized Management Official (AMO) and delegate, in writing, the authority to make suitability and fitness determinations and take subsequent actions in cases involving DHA personnel covered by this DHA-AI.

c. Establish support agreements in accordance with Reference (t) with the Military Departments (MILDEP) to utilize existing information systems and/or processes used to meet the requirements of References (h) through (j) and Reference (l).

d. Provide support and resources as required to implement this DHA-AI and any local policies, requirements, and procedures to ensure standardized implementation across the Military Health System.

e. Ensure processes are established to afford due process and appeals for individuals whose background checks reveal derogatory or otherwise disqualifying criteria.

2. DIRECTOR, J-1. The Director, J-1 through the Assistant Director (AD), J-1 will oversee all operations in support of this DHA-AI.

3. AD, J-1. The AD, J-1 must oversee all operations in support of this DHA-AI.

4. CHIEF, DHA ADMINISTRATIVE SECURITY DIVISION. The Chief, DHA Administrative Security Division must:

a. Manage the implementation and execution of this DHA-AI.

b. Establish and oversee a process for individuals to appeal unfavorable suitability determinations (found in accordance with sections 4.3 and 4.4 of Reference (i)) made by an AMO and coordinate the adjudication of appeals in accordance with section 4.5 of Reference (i).

c. Ensure DHA's compliance with all personally identifiable information collection, maintenance, dissemination, and use in accordance with the requirements of Reference (k).

5. CHIEF, DHA HUMAN CAPITAL DIVISION (HCD) or CHIEF, CIVILIAN HUMAN RESOURCE AGENCY (CHRA). The Chief, DHA HCD or Chief CHRA, must:

- a. Continue to ensure DHA Components that have personnel transferred to DHA Headquarter Support will report to Chief, DHA HCD. Personnel that have not transferred will continue to be processed through CHRA.
- b. Ensure prospective civilian personnel undergo the appropriate pre-screenings and assessments to evaluate their knowledge, skills, and abilities prior to being referred to the DHA Personnel Security Office (PSO) for a background check.
- c. Coordinate with supervisors on unfavorable suitability determinations, as needed. Ensure DHA's compliance with all personally identifiable information collection, maintenance, dissemination, and use in accordance with the requirements of References (k) and (r).

6. CHIEF, DHA HEADQUARTERS SUPPORT DIVISION (HSD). The Chief, DHA HSD, must:

- a. Ensure prospective military personnel proposed for assignment at a DHA facility undergo the appropriate pre-screenings and assessments to evaluate their knowledge, skills, and abilities prior to being referred to the DHA PSO for a background check. The originating Military Department is responsible for processing the prospective military personnel. In the event that prospective military personnel are assigned to a DHA facility, the PSO will vet the military personnel for appropriate background investigations. DHA will not accept and reciprocate any investigation initiated by the originating MILDEP. The Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Service (CAS) is the adjudicating facility for all DoD personnel, to include the MILDEPS.
- b. Coordinate with supervisors on unfavorable suitability determinations, found in accordance with sections 4.3 and 4.4 of Reference (i).

7. DEFENSE HEALTH AGENCY HEADQUARTERS (DHHQ), MILITARY MEDICAL TREATMENT FACILITY (MTF), DENTAL TREATMENT FACILITY, VETERINARIAN TREATMENT FACILITY (VTF), DEFENSE HEALTH AGENCY REGION (DHAR), AND SMALL MARKET AND STAND-ALONE MILITARY MEDICAL TREATMENT FACILITY ORGANIZATION (SSO) DIRECTORS OR ASSISTANT DIRECTORS. The DHHQ, MTF, Dental Treatment Facility, Veterinarian Treatment Facility, DHAR, and SSO Directors or Assistant Directors will:

- a. Select candidates prior to the Chiefs of DHA HCD and HSD conducting pre-screenings and assessments.

b. Ensure all position descriptions for civilian positions that require regular and recurring contact with children under the age of 18 as a primary duty are annotated and include obtaining and maintaining a favorable suitability determination as a condition of employment.

c. Coordinate the necessary human resources actions for DHA personnel rendered an unfavorable suitability determination from the AMO with the Chief, DHA HCD, or the Chief, DHA HSD.

8. AMO. The AMO must:

a. Make interim and final suitability and fitness determinations in cases involving DHA personnel covered by this DHA-AI.

b. Coordinate with MTF credentialing offices to address any requests for information and facilitate due process.

c. Establish and maintain evaluation methodology for presumptively disqualifying criteria and mitigating factors to promote consistency for the adjudication process.

d. Notify Human Resources of unfavorable suitability and fitness determinations.

9. DHA PSO SECURITY SPECIALIST FOR ALL DHHQ, DIRECT REPORTING MARKETS, SSO, DHARs, AND MTFs. The DHA PSO Security Specialists, must perform the following duties and responsibilities.

a. Following the selection of a candidate, PSO will submit the candidate to the local installation for an Installation Records Check (IRC) before an official employment offer is presented to the nominee. After completing the IRC, the PSO will submit the IRC to the DCSA.

b. Initiate the appropriate criminal history background checks and Child Care National Agency Check and Inquiries (CNACI) checks. PSO will coordinate with the MTF PSO and/or MTF Security Manager to submit their IRC checks to the DCSA for review. For MTFs without a Security Manager or PSO, DHA HSD will process the IRC check.

c. Conduct five-year reverification process for CNACI, which includes all criminal history background checks specified by the Office of Personnel Management (OPM) and the IRCs in accordance with Enclosure 3.

d. Refer cases to the AMO for interim and final suitability and fitness determinations upon completion of review.

e. Provide AMO's determinations to the individual's hiring manager, DHA HCD, DCSA CAS, and OPM, as necessary.

f. Notify the Chief, DHA Security; Chief, DHA HCD; Chief, DHA HSD; Supervisor; Contracting Officer's Representative (COR) for contractor employees; and Facility Security Officer or other appointed designee (as applicable) of DHA personnel requiring suspension, reassignment, or removal from childcare duties immediately upon discovery of automatic disqualifying criteria, as noted in Reference (i).

g. Coordinate with the Chief, DHA Security and AMO to adjudicate presumptively disqualifying criteria.

h. Submit requests for information to the local host installation as defined in section 3.6.e.(2) of Reference (s) regarding: alcohol and substance abuse, family advocacy, housing, and other MILDEP-led programs that may have information to be considered for the AMO's suitability and fitness determinations.

i. Maintain annual self-certification submissions from DHA personnel authorized to perform duties without LOSS.

j. Receive appeals of unfavorable suitability and fitness determinations and coordinate with the Chief, DHA Security, and AMO to adjudicate and afford due process.

10. CANDIDATES HAVING CLEARED A CHILD CARE CHECK. Candidates having cleared a child care check will self-certify on an annual basis, using page 2, section 8.c of DD Form 2981.

a. All DHA personnel whose primary duties require regular and recurring contact with children under the age of 18 must complete a new DD Form 2981 upon application for any position within a DoD Child and Youth (C&Y) program.

b. These individuals must annually self-report and certify over a five-year period specified crimes or offenses, as specified in Enclosure 3, Section 5.c.1, that would automatically or presumptively disqualify them from a favorable suitability or fitness determination.

c. After the initial five-year coverage period, C&Y program staff will initiate a new DD 2981 and maintain it in C&Y program offices. C&Y program staff will administer the annual DD 2981 self-reporting certification to:

(1) Employees during a single month of the calendar year, such as during annual performance reviews.

(2) Family Child Care providers, substitute providers, and adult family members residing in a family child care home during the annual recertification process.

(3) DoD contractors during annual agreement extensions, renewals, or awards.

(4) Specified volunteers in the most efficient manner determined by the DoD Components.

- d. On the fifth year, the DHA PSO Representatives will conduct a reverification for CNACI.

ENCLOSURE 3

PROCEDURES

1. REQUIREMENTS FOR CRIMINAL HISTORY BACKGROUND CHECKS. In accordance with References (h) through (j), DHA personnel whose primary duties require regular and recurring contact with children under the age of 18, must undergo an initial criminal history background check, Tier 1 or higher, and reverification every five years.

a. Criminal history background checks are completed through the IRC process, which includes: Federal Bureau of Investigation (FBI) fingerprint check; local, tribal, and State Criminal History Repository (SCHR) checks; sex offender database checks; drug and alcohol records check, and a check of the Reference (s) records for a minimum of two years before the date of the application; and other background checks, as applicable.

b. Exceptions will be made for the following individuals upon selection for a DHA position:

(1) Credentialed Healthcare Providers. Providers, as noted on page 1, paragraph 3.a. of this DHA-AI, who have undergone the applicable investigative elements outlined in paragraph 1.a. of this enclosure, during their credentialing process, will not have a full background check initiated upon selection for a DHA position. Such providers are still subject to the reverification, self-certification, and self-reporting requirements of this DHA-AI.

(2) Non-specified Volunteers. Individuals with infrequent contact with children under the age of 18, or interacting in a controlled and limited duration activity, such as participating in one-time activities or events, are considered non-specified volunteers. Due to the controlled, limited duration of an activity for these individuals, an advanced FBI fingerprint criminal history background check is not required. Non-specified volunteers will be permitted to perform duties and services under LOSS for the duration of the activity. The DHA individual identified as the activity or event sponsor is responsible for ensuring compliance with LOSS requirements.

(3) Individuals Selected for Temporary Appointments. Positions such as summer hires, camp counselors, and contractors, where an individual is employed for a period not exceeding 180 consecutive calendar days is considered a temporary appointment. Typically, the term of employment is of shorter duration than is required to perform a Tier 1 investigation background check. These individuals must always work under LOSS; however, temporary employees who return to employment on a recurring basis for an aggregate of 180 or more days in a single or series of appointments will be subject to a background check in accordance with this DHA-AI and the requirements of paragraph 3.4.g. of Reference (i).

c. The DCSA CAS is responsible for making initial favorable suitability determinations for civilian personnel in accordance with Reference (p). The DHA PSO is responsible for making suitability determinations for the reverifications.

d. Military personnel are not subject to suitability adjudication under Reference (d). Military personnel are subject to the background check requirements of Reference (d) and this DHA-AI.

e. Fitness determinations for contractors and non-appropriated fund employees will be made in accordance with References (e) and (f).

f. In cases where the background check has been initiated but not yet completed, and the results of the interim background check are favorably adjudicated, individuals may perform duties under LOSS pursuant to this DHA-AI.

g. DHA personnel having regular contact with children while serving in a volunteer position may only perform duties under LOSS.

h. Individuals whose background checks reveal derogatory or otherwise disqualifying criteria in accordance with sections 4.3 and 4.4 of Reference (i) will be afforded due process to include an evaluation by legal counsel and the opportunity to appeal an unfavorable suitability or fitness determination.

i. Existing Military Department (MILDEP) Child Care Check Support Agreements that may deviate from this DHA Policy, will remain in effect.

2. PRE-SCREENING AND ASSESSMENTS. Assessing an individual's eligibility, qualifications, and temperament for working with children requires a review of the application and supporting documents, personal interview, and reference checks. The DHA HCD; DHA HSD; supervisor; and/or COR refer individuals to the DHA PSO to initiate the background check upon completion of the pre-screening and assessment. SF 85, "Questionnaire for Non-Sensitive Positions," and SF 86, "Questionnaire for National Security Positions," will be used for this process. The Personal Security Office will initiate the request via the NP2 Portal. The applicant will receive notification and access to complete either the SF 85 or SF 86.

3. TYPES OF BACKGROUND CHECKS

a. FBI Fingerprint Check. Refer to paragraph 3.3.a. of Reference (i).

b. IRC. Refer to paragraph 3.3.b. of Reference (i). IRCs will include findings from:

(1) A National Crime Information Center/Interstate Identification Index Check (Special Agreement Check (SAC) Code "X") initiated upon submission of the individual's electronic-Questionnaires for Investigations Processing application. Reference (i) requires defense criminal investigative organizations and other DoD law enforcement organizations to report offender criminal history data to the Criminal Justice Information Services Division of the FBI for inclusion in the National Crime Information Center criminal history database.

(2) Requests for information as outlined in Reference (s) regarding alcohol and substance abuse, family advocacy, housing, and other Service-led programs that may have information necessary to make a suitability determination.

c. Tier 1 with Child Care Investigation for Non-Sensitive Positions. Refer to paragraph 3.3.c. of Reference (i).

d. SCHR Check. Refer to paragraph 3.3.d. of Reference (i). SCHR Checks will be initiated by listing SAC Code "8" with Code "B," FBI Fingerprint Classification Check, on individuals' electronic-Questionnaires for Investigations Processing application submissions.

e. SAC for Childcare Positions. Refer to paragraph 3.3.e. of Reference (i).

4. CONDUCTING BACKGROUND CHECKS. Procedures for conducting background checks differ based on the individual's employment or volunteer status (e.g., DoD civilian, military, contractor, specified volunteer personnel). Background checks will be conducted based on the individual's employment or volunteer status using the procedures described in paragraphs 3.4.a. through j. of Reference (i). The DHA PSO will coordinate with the OPM to conduct individuals' initial background checks and with the DCSA CAS to adjudicate the investigation.

5. SUITABILITY AND FITNESS DETERMINATIONS

a. Interim Determinations. Individuals for whom a criminal history background check has been initiated, but not completed, may perform duties under LOSS if rendered a favorable interim suitability or fitness determination by the AMO. In no event will an individual subject to this DHA-AI be presumed to have a favorable background check merely because there has been a delay in receiving the results of the requisite background check. Refer to Enclosure 4 and Appendix 2 for information on performing duties under LOSS.

b. Final Determinations. The AMO will render a final suitability or fitness determination once the DHA PSO has reviewed the findings of the applicable investigative elements outlined in paragraph 1.a. of this enclosure.

(1) Individuals rendered a favorable determination upon completion of a full criminal history background check are not required to perform duties under LOSS.

(2) If an investigation of an individual who is currently working under LOSS subsequently results in an unfavorable determination, the individual must be immediately removed from contact with children. The DHA PSO will coordinate with the Chief, DHA Security; Chief, DHA HCD; Chief, DHA HSD; COR; and Facility Security Officer or other appointed designee (as applicable) to initiate the necessary follow-up actions.

(3) If no response from the state(s) is received within 60 days, DCSA CAS (or the Component designee, if the CAS is unable to render a favorable determination for other reasons)

may render a determination based upon the DHA PSO's review of the Tier 1 findings and the criteria for presumptive and automatic disqualification in accordance with Reference (i).

c. **Criteria for Disqualification.** The AMO has the delegated decision-making authority on how to use information obtained from criminal history background checks. A disqualifying event may be the basis for a non-selection, withdrawal of a tentative offer of employment related to contact with children, removal from a contract, suitability action, probationary termination, an adverse action, or other appropriate action.

(1) The criteria for automatic disqualification are listed in Enclosure 3, paragraph 3.b, of Reference (h). Under no circumstances will a favorable suitability determination be issued to an individual that has been convicted of the following: a sexual offense, any crime involving a child victim, a felony drug offense, or negligence in a civil adjudication or administrative proceeding concerning the death or serious injury to a child or dependent person entrusted to the individual's care.

(2) The criteria for presumptive disqualification are located in Enclosure 3 paragraph 4.a. of Reference (h). The AMO will follow the evaluation requirements as defined in Enclosure 3, paragraph 4 of Reference (h).

(3) All DHA personnel are required to immediately report any event that meets the criteria for automatic or presumptive disqualification to their supervisor and the DHA PSO, as noted in Reference (i).

d. **Disputes and Appeals.** Individuals may dispute derogatory investigation findings and appeal unfavorable suitability or fitness determinations rendered by the AMO in accordance with References (h) and (i).

(1) Appropriated funds civilian employees may file an appeal with the U.S. Merit Systems Protection Board in accordance with Part 731 of Reference (n).

(2) Non-appropriated funds civilian employees may file an appeal with the DHA PSO. The DHA PSO will coordinate a review with the Chief, DHA Security; Chief, DHA HCD; Chief, DHA HSD; AMOs; DHA Office of General Counsel; and labor union (if applicable).

6. **RECIPROCITY OF BACKGROUND CHECKS.** Reciprocal recognition of a favorable suitability or fitness determination is acceptable at all DHA MTFs as long as the determination is completed by DHA Headquarters and within the five-year scope of the most recent DHA completed background check.

a. DHA Components may not consider background checks conducted by another federal agency as reciprocal background checks suitable for adjudication of C&Y programs pursuant to Reference (h); and;

b. DHA Components may reciprocally accept background checks and suitability determinations made by another DoD Component for child care services if it meets the requirements specified in Reference (h).

7. REVERIFICATIONS. All individuals subject to this DHA-AI, who continue to perform duties in the position for which their initial background check was conducted, must undergo a reverification every five years.

a. The DHA PSO will coordinate with OPM to initiate the reverification six months prior to the reverification due date.

b. The reverifications will be conducted based on the individual's employment or volunteer status.

(1) Reverifications for DHA personnel, to include civilian employees, military personnel, contractor personnel, and any other individuals reasonably expected to have regular contact with children, will include:

(a) An FBI fingerprint SAC with SCHR that includes child abuse and neglect, and sex offender registries for all states lived in during the five years since the date of the last investigation or reverification.

(b) An IRC of all affiliated installations for the five years since the date of the last IRC.

(2) Reverification for specified volunteers and persons 18 years of age or older residing in a foster or respite care home will include:

(a) An FBI fingerprint SAC.

(b) An IRC of all affiliated installations for the five years since the date of the last investigation or reverification.

(3) Designees must place an individual under LOSS and conduct an expanded-focused investigation if new information obtained through the reverification, the annual certification requirements prescribed by DD Form 2981, or other channels raises suitability issues; and/or,

(4) If the reverification results in an unfavorable suitability determination, DHA supervisors will reassign, remove, or terminate the individual from employment, contract, or volunteer status.

c. Continued suitability to perform duties will be determined by an AMO following the DHA PSO's review and adjudication of the OPM reverification findings.

8. ANNUAL SELF-CERTIFICATIONS. Individuals in positions covered by this DHA-AI are required to annually self-certify they have not been arrested, charged, or convicted by federal, state, local, or tribal authorities of any crime considered automatic or presumptive disqualifying criteria as listed in Reference (i). These certifications must be signed by the individual and submitted to the DHA PSO within five business days of the anniversary of the individual's hiring date.

ENCLOSURE 4

PERFORMING DUTIES UNDER LOSS

1. GENERAL. Individuals for whom a criminal history background check has been initiated, but not yet completed, may perform duties under LOSS if permitted by the AMO. LOSS can only be administered by an individual who meets the requirements in this enclosure.

2. REQUIREMENTS

a. Preliminary Investigations Required. Before an individual can be permitted to perform duties under LOSS, the AMO must render a favorable interim suitability determination (see Appendix 1) based on the DHA PSO's review of the following:

(1) An IRC, including an installation law enforcement check, drug and alcohol records check, and a check of the Family Advocacy Program records for a minimum of two years before the date of the application if the individual has a pre-existing DoD affiliation.

(2) Initial results from an advanced FBI fingerprint check (not the full check).

b. Supervisor Requirements. The supervisor must be a person who has:

(1) Undergone and successfully completed the required background check;

(2) Complied, as required, with the periodic reverification requirement for a recurring criminal history background check; and

(3) Not previously exhibited reckless disregard for an obligation to supervise a civilian or military employee, contractor, or volunteer.

c. Conspicuous Identification. Individuals permitted to perform duties solely under LOSS must be conspicuously marked by means of having a turquoise stripe on their badge (see Appendix 3), in addition to site-specific markings, distinctive clothing, or wristbands. Individuals who have received a favorably adjudicated Child Background Check must be conspicuously marked by means of having a green strip on their badge (see Appendix 3), in addition to site-specific markings. The purpose of such markings must be communicated to staff, customers, parents, and guardians by conspicuous posting or printed information. The means of conspicuous marking will be determined by the DHA PSO.

d. Direct Sight and Video Surveillance. The use of video surveillance equipment to provide temporary oversight for individuals whose required background checks have been initiated but not completed is acceptable provided the individual is continuously monitored by an individual who has undergone and successfully completed all required background checks. All other

individuals required to perform duties under LOSS are permitted to do so only under “direct sight supervision.”

e. **Permissible Performance of Duties Without Supervision.** Individuals otherwise required to perform duties only under LOSS may perform duties without supervision if the interaction:

- (1) With a child occurs in the presence of the child’s parent or guardian;
- (2) With children is in a medical facility, subject to supervisory policies of the facility, and in the presence of a mandated reporter of child abuse; or
- (3) Is necessary to prevent death or serious harm to the child, and supervision is impractical or unfeasible (e.g., response to a medical emergency, emergency evacuation of a child from a hazardous location).

g. **Individuals Assigned to LOSS Roles and Responsibilities.** An individual working under LOSS must be supervised during interaction with a child by being monitored by an individual who:

- (1) Undergone a criminal history background check and received a favorable fitness or suitability determination.
- (2) Complied with the periodic reverification requirement for a recurring
- (3) Not previously exhibited reckless disregard for an obligation to supervise an employee, contractor, or volunteer.

i. **Conspicuous Identification of Individuals Subject to LOSS.** All individuals, including those permitted to perform duties solely under LOSS, must be conspicuously marked by means of distinctive badges with apparent markings that are fully visible when viewed from all angles. The LOSS badges (see Appendix 3) will be uniform across the DHA and must always be worn during duty hours. The purpose of such markings must be communicated to staff, patients, parents, and guardians by conspicuous posting or printed information.

j. **Authorized Removal from LOSS.** Removal from LOSS may occur once a final favorable adjudication of remaining child care background checks have been made. At that time, the individual will receive notification of removal from LOSS from the AMO. In addition, the individual will also be provided instructions to receive a new badge marked with a green color band identifying the individual has been cleared with a final favorable investigation for Child Background Check.

k. **Unfavorable Suitability Determination.** If unfavorable suitability determination is made, appropriate action will be taken to reassign or remove the employee from a position involving contact with children, due to their inability to meet the conditions of employment.

APPENDIX 1

LOSS AUTHORIZATION TEMPLATE



DEFENSE HEALTH AGENCY
7700 ARLINGTON BOULEVARD, SUITE 5101
FALLS CHURCH, VIRGINIA 22042-5101

MEMORANDUM FOR: DEFENSE HEALTH AGENCY PERSONNEL SECURITY OFFICE

FROM: [LAST NAME, MI, POSITION TITLE] [MARKET/MTF OR SUBORDINATE CLINIC NAME]

SUBJECT: Line of Sight Supervision (LOSS) Authorization for [LAST NAME, FIRST NAME MI, SSN]

1. The Initial background checks conducted on the above individual, as required for their position, was returned and revealed the following information:

a. Source:

(1) Fingerprints:

(2) Investigation:

b. Date:

c. Location:

d. Offense:

e. Disposition:

2. Based on the initial finding (s) and rebuttal, the Defense Health Agency Personnel Security Office recommends that this individual:

_____ is found suitable in the interim to perform under Line of Sight Supervision (LOSS), pending final, favorable adjudication, in accordance with the LOSS Statement of Understanding.

_____ is not found suitable in the interim to perform under LOSS, pending final, favorable adjudication.

3. The Market/MTF Director, or designee:

_____ Approves for LOSS (willing to accept the risk of allowing the individual to perform under LOSS; subject to favorable adjudication of the remaining background checks).

_____ Disapproves for LOSS (not willing to accept the risk of allowing the individual to perform under LOSS).

Defense Health Agency,
[AUTHORIZED MANAGEMENT OFFICIAL]

APPENDIX 2

LOSS STATEMENT OF UNDERSTANDING TEMPLATE



DEFENSE HEALTH AGENCY
7700 ARLINGTON BOULEVARD, SUITE 5101
FALLS CHURCH, VIRGINIA 22042-5101

MEMORANDUM FOR [NAME]

SUBJECT: LINE OF SIGHT SUPERVISION (LOSS) STATEMENT OF UNDERSTANDING

1. This memorandum is to notify you the Defense Health Agency has authorized you to work under LOSS pending the completion and favorable adjudication of your State Criminal History Repository checks and Child Care National Agency Check with Written Inquiries (CNACI) or a final favorable suitability adjudication has been made. While working under LOSS you will be required to follow the procedures outlined in paragraphs 2 through 3 below.

2. Personnel Working Under LOSS:

- a. Require visual observation and supervision while engaged in child interactive duties or in the presence of children in DoD-sanctioned program or activity.
- b. Must be conspicuously marked by means of distinctive badges with apparent marking that are fully visible when viewed from all angles.
- c. Personnel required to work under LOSS will be identified with a badge marked with a turquoise color band. This badge must always be worn during duty hours.

3. Individuals required to perform duties under LOSS may only perform duties without LOSS if the interaction with a child:

- a. Occurs in the presence of the child's parent or guardian;
- b. Is in a medical facility, subject to the supervisory policies of the facility, and in the presence of a mandated reporter of child abuse. A "mandated reporter of child abuse" is any person listed in Section 13031(b) of Title 42, United States Code; and
- c. Interaction is necessary to prevent the death of or serious harm to the child and supervision is impractical or unfeasible (for example, medical emergency or emergency evacuation of a child from a hazardous location).

4. An individual working under LOSS must be supervised during interaction with a child by being monitored constantly by an individual who:
 - a. Is responsive and aware of the child's reactions, as well as verbal and non-verbal indications of distress (suspecting unprofessional and unsafe behavior);
 - b. Has complied, as required, with the periodic re-verification requirement for a recurring criminal history background check; and
 - c. Has not previously exhibited wanton or reckless disregard for an obligation to supervise civilian employees, contractors, volunteers, or military personnel. Volunteers or students may not serve as a LOSS supervisor.
5. You will be removed from LOSS once a final favorable adjudication of your remaining Child Care Background Check has been made. At that time, you will receive notification of your removal from LOSS from the AMO and will receive instructions to receive a new badge marked with a green color band identifying you as cleared with a final favorable investigation for the Child Background Check.
6. If an unfavorable suitability determination is made by the AMO, appropriate action will be taken to reassign or remove you from your position due to your inability to meet your conditions of employment.
7. The POC for this Statement of Understanding is [enter name], Background Check Coordinator, at [enter duty number] or [enter e-mail address].

[DATE]
[AUTHORIZED MANAGEMENT OFFICIAL]

[DATE]
[SUBJECT]

APPENDIX 3

SAMPLE LOSS BADGES

Turquoise Strip indicates all individuals, to include those with a pending Child Background Check while working under LOSS.

Green Strip indicates individuals with a favorably Completed Child Background Check.



*Component specific color additions can be included on the badge, as long as DHA's color coding is on the badge.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AD	Assistant Director
AMO	Authorized Management Official
CAS	Consolidated Adjudication Service
C&Y	Child and Youth
CHRA	Civilian Human Resource Agency
CNACI	Child Care National Agency Check and Inquiries
COR	Contracting Officer's Representative
DCSA	Defense Counterintelligence and Security Agency
DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
DHAR	Defense Health Agency Region
DHHQ	Defense Health Agency Headquarters
FBI	Federal Bureau of Investigation
HCD	Human Capital Division
HSD	Headquarters Support Division
IRC	Installation Records Check
J-1	Administration and Management
LOSS	line-of-sight supervision
MILDEP	Military Department
MTF	Military Medical Treatment Facility
OPM	Office of Personnel Management
PSO	Personnel Security Office
SAC	Special Agreement Check
SCHR	State Criminal History Repository
SF	Standard Form
SSO	Small Market and Stand-Alone Military Medical Treatment Facility Organization

PART II. DEFINITIONS

adult. An individual 18 years of age or older regarded in the eyes of the law as being able to manage his or her own affairs.

candidate. An individual whose primary duties require regular contact with children under the age of 18.

child. A person under 18 years of age.

DHA Components. Activities under the authority, direction, and control of DHA including: Markets, and MTF and Dental Treatment Facilities, Defense Health Agency Region, Small Market and Stand Alone Medical Treatment Organizations, (collectively referred to as DHA Components for the purpose of this instruction) and all DHA personnel to include assigned, attached, or detailed active duty, reserves, or National Guard personnel, federal civilians, contractors when required by the terms of the contract, volunteers, students, non-appropriated fund employees and other personnel assigned temporary or permanent duties at DHA and DHA Components.

FBI criminal history background check. An FBI identification record, often referred to as a criminal history record or a “rap sheet,” is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests and, in some instances, federal employment, naturalization, or military service. The process of responding to an identification record request is generally known as a criminal history background check.

fitness. The reference to a person’s level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a federal agency as an employee in the excepted service (other than in a position subject to suitability), or as a contractor employee.

fitness determination. A decision, based on review of criminal history background check findings, that an individual is fit to perform duties in a position subject to criminal history background check. Fitness determinations will be “favorable,” meaning the individual is fit to perform the duties, or “unfavorable,” meaning the individual is not.

LOSS. Continuous visual observation and supervision of an individual whose background check has not yet cleared, and has a favorable interim suitability or fitness determination, while engaged in child interactive duties, or in the presence of children in a DHA-sanctioned program or activity. The person providing supervision must have undergone a background check and received a final favorable suitability or fitness determination and be current on all periodic reinvestigations as required by this DHA-AI.

OPM NP2. The OPM NP2 is the secure portal which allows authorized users to receive email, review and download documents, and access information on The National Background Investigations Bureau products and services to include billing invoice files. The OPM NP2 portal also acts as a gateway to DCSA’s automated systems (Electronic Questionnaires for

Investigations Processing (e-QIP), Personnel Investigation Processing System (PIPS) and Central Verification System (CVS).

regular and recurring contact with children. Recurring and more than incidental contact with or access to children in the performance of their duties on a DoD installation, program, or as part of a DoD sanctioned activity.

suitability. A person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the efficiency of the service.

Tier 1 investigation. See Reference (i).