

House Bill 435:

New Clearance Requirements for Volunteers

When working with volunteers, there are two main issues addressed in House Bill 435:

1. The required screening of every volunteer who works with minors.
2. The new definition of a mandated reporter.

This document will attempt to answer the most basic questions and offer resources for more information. It is always valuable to consult legal counsel for guidance or assistance.

New Definitions

Beginning July 1, 2015, an adult applying for an unpaid position as a volunteer **responsible for the welfare of a child** or having **direct contact with children** will need clearances.

Responsible for the Welfare of a Child

When determining whether a volunteer is **responsible for the welfare of a child**, consider whether the volunteer is acting in lieu of or on behalf of a parent. If the volunteer is acting in lieu of or on behalf of a parent, the volunteer will need clearances. If a determination is made that the volunteer is not responsible for the welfare of a child, you then determine whether they have **direct contact with children**.

Direct Contact with Children

A volunteer has **direct contact with children** when the volunteer provides care, supervision, guidance or control of children or has routine interaction with children. As these terms are not defined in the statute, the common meaning of the terms should be used (with child safety being the primary consideration).

If the volunteer provides care, guidance, supervision or control of children or has routine interaction with children, the volunteer needs clearances. Again, it is always valuable to consult legal counsel for guidance or assistance.

Required Clearances

Criminal History and Clearance reports required *prior to the provision of volunteer services*.

1. Report of criminal history from Pennsylvania State Police: **\$10.00**.
2. Child abuse history clearance from Penn Department of Human Services: **\$10.00**.
3. FBI Criminal History: **\$27.50**; *or* an affidavit, if certain criteria are met (see below).

The Federal Criminal History report (Item No. 3, above) can be waived if the volunteer:
-has been a resident of Pennsylvania for the entirety of the previous ten years; and
-swears or affirms, in writing, that he or she has not been convicted of one or more of the disqualifying crimes (one listed in §6344.2(b.1)(1)).

Sample Affidavit Form: [[Form Affidavit](#)].

To learn more about obtaining these clearances, visit:

<http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>

Record Keeping

The organization must keep a copy on file made from the original.

Clearance Renewals

Beginning July 1, 2015, all volunteers will be required to obtain clearances every 36 months. Timeframes for renewed clearances are based upon the date of each individual clearance. If an individual or agency elected to renew all clearances at the same time, the date of the oldest clearance rather than the most recent would be used.

Use of the Third Party Background Check Vendors

Third-party vendors may be used to process the steps described above. Other database searches are permissible, but *do not satisfy the above requirements* – the steps above must be followed. There may be value, however, in having a third-party vendor perform additional supplemental searches to determine whether any criminal records exist outside the state of Pennsylvania – especially if the volunteer submits the affidavit in lieu of the Federal Criminal History.

Provisional Clearances

Individuals who reside in another state or country may serve as a volunteer for no more than 30 days as long as they provide clearances from their state or country of residence (domicile). Though it is not clearly outlined what is meant by clearances from the state of domicile, presumably a background search provided by a third-party vendor is sufficient so long as the criminal records for the place of domicile are available in the search requested.

Paying for Clearances

The volunteer is responsible for paying the cost of the required clearances. Organizations, however, can choose to pay for clearances for their volunteers and are able to establish business accounts to pay for clearances, by registering for a Business Partner User account using the “Organization Account Access” link on the Child Welfare Portal, www.compass.state.pa.us/cwis.

The business account will allow organizations to purchase Child Abuse clearance payment codes to be distributed to applicants or employees. Individual applicants or employees will then go to the Child Welfare Portal to apply for the clearance using the code. The pre-purchased codes can only be used once and allows the organization to have access to the applicant’s Child Abuse clearance results once those results are processed.

An organization can also create an agency pay agreement/business account for FBI clearances through the Department of Human Services; for information, go to: https://www.pa.cogentid.com/index_dpwNew.htm.

FBI Criminal History Clearance – obtain through DOE or DHS?

The agency under which an applicant should submit his/her FBI clearance application is based on the agency or organization for which he/she intends to volunteer. If the applicant intends to volunteer in a school or at a school-related function, he/she would apply for the FBI clearance through the Department of Education. If the applicant intends to volunteer with children in any other capacity outside of a school setting or function, such as a group home for children, in a church, as a Little League or soccer coach, etc., he/she would apply for the FBI clearance through the Department of Human Services.

Last Updated: 4-21-2015