



Notice of Instruction

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Notice of Instruction Number 021921: Attestation of Compliance – Candidate Form

TO: All PSA 6 Providers

FROM: Abbie Walters, Senior Contract Manager

DATE: February 19, 2021

SUBJECT: Attestation of Compliance – Candidate Form

The purpose of this Notice is to inform service providers of a change to the Department of Elder Affairs (DOEA) Form 236. This change impacts Area Agencies on Aging, services providers, and any local subcontractors and vendors that contract directly or indirectly with the DOEA. It is the responsibility of the service provider to inform their subcontractors and vendors of this update.

Step 2, of the Attestation of Compliance – Candidate Form (pages 3-5), has been amended by the General Counsel's Office.

The attachment to this Notice replaces:

- DOEA Form 236, Attestation of Compliance – Candidate Form, dated January 19, 2021 (issued with NOI #012221).

The updated form is:

- DOEA Form 236, Attestation of Compliance – Candidate Form, dated February 18, 2021.

The updated form is now available on the DOEA website under Background Screening at the following location:

<http://www.elderaffairs.org/doea/backgroundscreening.php>

Each Area Agency on Aging, service provider, subcontractor, and vendor that contracts directly or indirectly with the DOEA shall use the updated form beginning on or before February 26, 2021.

If you have questions, please contact your contract manager. Thank you.

Attachment:

DOEA Form 236, Attestation of Compliance – Candidate Form (dated February 18, 2021)

BACKGROUND SCREENING

Attestation of Compliance – Candidate

AUTHORITY: This form is required of all candidates who are direct service providers when claiming an exception to Level 2 background screening set forth in sections 430.0402(2) and (3), Florida Statutes, or to comply with the attestation requirements set forth in section 435.05(2), Florida Statutes.

This form is required by **all candidates** to comply with the following:

- The attestation requirement of **section 435.05(2), Florida Statutes**, which states that “every employee required to undergo Level 2 background screening must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant to this chapter and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer”; **AND**
- The proof of screening within the previous 5 years in **section 408.809(2), Florida Statutes**, which requires proof of compliance with Level 2 screening standards that have been screened through the *Care Provider Background Screening Clearinghouse* created under **section 435.12, Florida Statutes**, or screened within the previous 5 years by the Agency, Department of Health, Department of Elder Affairs, the Agency for Persons with Disabilities, Department of Children and Families, or the Department of Financial Services for an applicant for a certificate of authority to operate a continuing care retirement community under **chapter 651, Florida Statutes**, if that agency is not currently implemented in the Care Provider Background Screening Clearinghouse.

This form must be maintained in the candidate’s personnel file, if hired, or with the Human Resources Department. If this form is used as proof of screening for an administrator or chief financial officer to satisfy the requirements of an application for a health care provider license eligibility or monitoring purposes, please attach a copy of the screening results and submit the application.

The term “candidate” as used herein refers collectively to **all persons** required by law to undergo a background screening. This includes, but is not limited to, persons who are determined to be a direct service provider. A direct service provider is a person at least 18 years of age who, pursuant to a program to provide services to the elderly, has direct face-to-face contact with a client while providing services and has access to the client’s living areas, funds, personal property, or personal identification information as defined in section 430.0402(1) (b), Florida Statutes. A direct service provider also includes coordinators, managers, and supervisors of residential facilities and volunteers.

Personal identification information defined in section 817.568(1)(f), Florida Statutes means “any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any:

1. Name, postal or electronic mail address, telephone number, social security number, date of birth, mother’s maiden name, official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank account number, credit or debit card number, or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized electronic use of such card;
2. Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
3. Unique electronic identification number, address, or routing code;
4. Medical records;
5. Telecommunication identifying information or access device; or
6. Other number or information that can be used to access a person’s financial resources.”

EMPLOYER: IF A CANDIDATE IS HIRED AND IS DETERMINED TO BE A DIRECT SERVICE PROVIDER, THIS COMPLETED FORM MUST BE RETAINED IN THE EMPLOYEE’S FILE. IF AN EXCEPTION TO BACKGROUND SCREENING IS CLAIMED, A COPY OF THE REQUIRED EVIDENCE MUST BE ATTACHED TO THIS FORM.

STEP ONE: Complete identification information.

_____	_____
Candidate Name	Position Applied For

Employer	

STEP TWO: The candidate must review the following list of disqualifying offenses set forth in chapter 435 and section 430.0402, Florida Statutes.

FLORIDA STATUTE (or any similar statute of another jurisdiction)	CHARGE/OFFENSE No person subject to the provisions of this section has an arrest awaiting final disposition for, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere (no contest) or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:
393.135	Relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
394.4593	Relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct
409.920*	Relating to Medicaid provider fraud.
409.9201*	Relating to Medicaid fraud.
415.111	Relating to abuse, neglect, or exploitation of a vulnerable adult.
741.28*	Relating to domestic violence.
777.04	Relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
782.04	Relating to murder.
782.07	Relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
782.071	Relating to vehicular homicide.
782.09	Relating to the killing of an unborn child by injury to the mother.
784 – All	All of chapter 784 offenses relating to assault, battery, and culpable negligence, of offense was a felony.
784.011	Relating to assault, if the victim of the offence was a minor.
784.03	Relating to battery, if the victim of the offence was a minor.
787.01	Relating to kidnapping.
787.02	Relating to false imprisonment.
787.025	Relating to luring or enticing a child.
787.04(2)	Relating to taking, enticing, or removing a child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	Relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
790.115(1)	Relating to exhibiting firearms or weapons within 1,000 feet of a school.
790.115(2)(b)	Relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
794.011	Relating to sexual battery.
794.041	Relating to prohibited acts of persons in familial or custodial authority.
794.05	Relating to unlawful sexual activity with certain minors.
796 – All	All chapter 796 offenses relating to prostitution.

798.02	Relating to lewd and lascivious behavior.
800 – All	All chapter 800 relating to lewdness and indecent exposure.
806.01	Relating to arson.
810.02	Relating to burglary.
810.14	Relating to voyeurism, if the offense is a felony.
810.145	Relating to video voyeurism, if the offense is a felony.
812 – All	All chapter 812 offenses relating to theft, robbery, and related crimes, if the offense was a felony.
817.034*	Relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photo-optical systems.
817.505*	Relating to patient brokering.
817.563	Relating to fraudulent sale of controlled substances, only if the offense was a felony.
817.568*	Relating to criminal use of personal identification information.
817.60*	Relating to obtaining a credit card through fraudulent means.
817.61*	Relating to fraudulent use of credit cards, if the offense was a felony.
825.102	Relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
825.1025	Relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
825.103	Relating to the exploitation of an elderly person or disabled adult, if the offense was a felony.
826.04	Relating to incest.
827.03	Relating to child abuse, aggravated child abuse, or neglect of a child.
827.04	Relating to contributing to the delinquency or dependency of a child.
827.05	Relating to negligent treatment of children.
827.071	Relating to sexual performance by a child.
827.04	Relating to contributing to the delinquency or dependency of a child.
831.01*	Relating to forgery.
831.02*	Relating to uttering forged instruments.
831.07*	Relating to forging bank bills, checks, drafts, or promissory notes.
831.09*	Relating to uttering forged bank bills, checks.
843.01	Relating to resisting arrest with violence.
843.025	Relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.
843.025	Relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.
843.12	Relating to aiding in an escape.
843.13	Relating to aiding in the escape of juvenile inmates in correctional institutions.
847 – All	All chapter 847 offenses relating to obscene literature.
874.05	Relating to encouraging or recruiting another to join a criminal gang.
893 – All	All chapter 893 offenses (all drug related offenses) relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
916.1075	Relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
944.35(3)	Relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
944.40	Relating to escape.
944.46	Relating to harboring, concealing, or aiding an escaped prisoner.
944.46	Relating to harboring, concealing, or aiding an escaped prisoner.
944.47	Relating to introduction of contraband into a correctional facility.
985.701	Relating to sexual misconduct in juvenile justice programs.
985.711	Relating to contraband introduced into detention facilities.

***Found in section 430.0402, Florida Statutes.**

NO EXEMPTIONS can be granted for the following offenses under Florida Statutes (or any similar statute of another jurisdiction) REGARDLESS of the time elapsed since any confinement, supervision, or sanction:

775.21	Sexual Predator
775.261	Career Offender
943.0435	Sexual Offender – unless the requirement to register as a sexual offender has been removed pursuant to 943.04354

I have been granted an Exemption from Disqualification through one of the following Specified Agencies:

- | | |
|---|--|
| <input type="checkbox"/> Department of Elder Affairs | <input type="checkbox"/> Department of Financial Services |
| <input type="checkbox"/> Agency for Health Care Administration | <input type="checkbox"/> Department of Health |
| <input type="checkbox"/> Agency for Persons with Disabilities | <input type="checkbox"/> Department of Juvenile Justice |
| <input type="checkbox"/> Department of Children and Family Services | <input type="checkbox"/> Division of Vocational Rehabilitation |

Date of Decision: _____

**** A copy of the Exemption from Disqualification decision letter must be attached****

STEP THREE: The candidate must complete this section if claiming an exception to level 2 background screening conducted by the Department of Elder Affairs. If not claiming an exception, then skip to Step Four.

If you are claiming that you qualify for an exception to level 2 background screening pursuant to sections 430.0402(2) or (3), Florida Statutes, and, thereby, you are not required to undergo background screening through the Department of Elder Affairs, please indicate the type of exception and attach the required evidence.

EXCEPTION:

- Attorney - _____ (initials) An attorney in good standing with the Florida Bar if you are providing a service within the scope of your licensed practice.
Evidence: A copy of the screen shot of your membership in good standing with the Florida Bar.
- Relative - _____ (initials) A relative of the client.
Evidence: Circle your relationship to the client: husband, wife, father, mother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
- Volunteer - _____ (initials) A volunteer who assists for fewer than 20 hours per month and you are not listed on the FDLE Career Offender Search database or the Dru Sjodin National Sex Offender Public Website.
Evidence: A copy of your search results screen shot from each criminal database showing no records were found.

EMPLOYER: IT IS THE EMPLOYER'S RESPONSIBILITY TO VERIFY THE AUTHENTICITY AND ACCURACY OF ANY DOCUMENTATION REQUIRED AS EVIDENCE OF A CANDIDATE'S QUALIFICATION FOR AN EXCEPTION.

STEP FOUR: Each candidate determined to be a direct service provider must complete the required attestation below.

Claiming an Exception: If you are claiming that you qualify for an exception to level 2 background screening, you are not required to undergo background screening through the Department, and you must sign the attestation below.

Not Claiming an Exception: If you are *not* claiming one of the exceptions to level 2 background screening listed in Step Three, you must complete level 2 background screening through the Department of Elder Affairs. Once you have been determined qualified for service by the Department, you must sign the attestation below.

ATTESTATION

Under penalty of perjury, I _____, hereby swear or affirm that I meet the requirements for qualifying for employment pursuant to the background screening standards set forth in chapter 435 and section 430.0402, Florida Statutes. In addition, I agree to immediately inform my employer if arrested or convicted of any of the disqualifying offenses while employed by my employer.

Candidate Signature

Date

EMPLOYER: ONCE THE ATTESTATION IS SIGNED, KEEP THIS COMPLETED FORM IN THE CANDIDATE'S FILE.