


Florida Fish and Wildlife Conservation Commission  
**Internal Management Policies and Procedures (IMPP)**

	TITLE	IMPP
	Employee Criminal History Record Check	6.46
		EFFECTIVE DATE
	02/23/2018	
APPLICABILITY		RESCINDS/AMENDS
All Employees		03/17/2015

**REFERENCES:**

**AUTHORITY:** RULE 60L-33.002 and Chapter 71A-1, Florida Administrative Code, Sections 110.1127 and 775.16 and Chapters 409.175, and 435 and 943.04351 Florida Statutes; Executive Director

**IMPP OWNER:** HUMAN RESOURCES

**POLICY**

Section [110.1127](#), Florida Statute, requires state employees in positions of “special trust or responsibility” and positions assigned to “sensitive locations” be subject to a criminal history check as a condition of employment. Section [409.175](#), Florida Statutes, requires personnel working in summer day camps or summer 24-hour camps providing care to children to undergo a criminal history record check. Additionally, Section [943.04351](#), Florida Statutes, requires a state agency, before making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, to search that person’s name or other identifying information against the [Dru Sjodin National Sexual Offender Public Website](#). Refusal to comply with this policy shall render an applicant ineligible for employment and shall be grounds for dismissal of an employee.

Criminal history record checks are conducted by fingerprinting persons in positions specified in this policy and will be conducted at both the state and the national level (Level 2). Information obtained from Level 2 checks are not public record in accordance with Federal law.

Volunteers shall be subject to the criminal history record check requirements as outlined in [IMPP 6.9](#).

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## 6.46.1 DEFINITIONS

- A. Criminal History Check** - A record check to determine if a person has been arrested and/or convicted of a crime.
- B. Level 2 Background Check** - A state and national fingerprint based check, which includes a sexual predator/offender search, and consideration of disqualifying offenses, and applies to those employees designated by law as holding positions of special trust, responsibility or sensitive location.
- C. Specific to Summer Day Camps and Summer 24-hour Camps:**
1. **“Personnel”** for the purposes of screening, includes owners, operators, employees and volunteers working in summer day camps, or summer 24-hour camps providing care for children.
  2. **“Screening”** is defined as the act of assessing the background of “personnel” and includes Level 2 screening standards as set out in Section 435.04, Florida Statutes, which includes fingerprinting for statewide criminal history checks through the Department of Law Enforcement, and national criminal history record checks through the Federal Bureau of Investigation.
  3. **“Summer day camp”** means recreational, educational, and other enrichment programs operated during summer vacations for children who are 5 years of age on or before September 1 and older.
  4. **“Summer 24-hour camp”** means recreational, educational, and other enrichment programs operated on a 24-hour basis during summer vacation for children who are 5 years of age or older on or before September 1, that are not exclusively educational.

## 6.46.2 POSITIONS REQUIRING A CRIMINAL HISTORY CHECK

- A. Section [110.1127](#), Florida Statutes, requires the Commission to designate positions that because of the special trust or responsibility or sensitive location, are required to undergo security background investigations. The Commission designates the following positions which are required to undergo employment screening in accordance with Section [435.04](#), Florida Statutes, using Level 2 screening standards, as a condition of employment and continued employment. The Level 2 screening is to ensure that no person subject to the screening has violated any of an extensive list of criminal provisions specifically listed in Sections [435.04\(2\) and \(3\)](#), Florida Statutes. Employees or applicants recommended for appointment in these positions will be fingerprinted. The criminal history record check must be completed prior to or within the first thirty (30) days of employment for:
1. All positions in the Office of the Executive Director, the Finance & Budget Office, the Office of the Chief Financial Officer, the Legal Office, the Office of Inspector General and the Division of Law Enforcement.
  2. All positions at the Section Leader, Deputy Director and Director level as well as those positions determined to have responsibilities comparable to such positions as recommended by the Director of Human Resources and approved by the Assistant Executive Director.

3. All positions that have access to cash paid to the agency, checks made out to the agency or the Fish and Wildlife Foundation of Florida (Foundation) or credit card information provided to the agency or Foundation for purchase of an agency product, license or service.
  4. All positions assigned a role code in the People First system that allows access to employee information for the entire agency.
  5. All positions that may have access to databases and reports containing social security numbers or law enforcement confidential data.
  6. All positions for which the duties require providing care to children, under the age of 18 years, for 15 hours or more per week as required in Section [110.1127\(2\)\(c\)1](#), Florida Statutes, except for summer camp program personnel who must be screened as outlined in Section [409.175](#), Florida Statutes.
  7. Information technology positions with access to information-processing facilities or information technology positions that have system, database, developer, network or other administrative capabilities for systems, applications or servers with risk categorizations of moderate or high risk.
  8. All positions filled by a temporary staffing company which meets the criteria in IMPP 6.46.2 A, 1 through 7.
- B.** Directors may request individual positions, not identified in this section, be added to the required list of employees subject to the Criminal History Record Check. The director shall provide in writing to the Office of Human Resources the position number, title and the criteria established in statute (special trust or responsibility, sensitive location) which the position meets. The request must be approved by the Assistant Executive Director. Staff in the Office of Human Resources will maintain records of positions added to the required fingerprint list.
- C.** A Section Leader (or equivalent) may require a Criminal History Record Check of an applicant who disclosed a prior criminal history on the State of Florida employment application.
- D.** Criminal history records from previous employers will not be sufficient to meet the requirements set forth in this IMPP.

#### 6.46.3 Summer Camp Positions Requiring a Criminal History Record Check

- A. Section [409.175\(6\)\(k\)](#), Florida Statutes, requires the Department of Children and Families (DCF) to ensure the compliance with the screening requirements of Section [409.175](#), Florida Statutes, for personnel of summer day camps and summer 24-hour camps.
- B. All summer day camp and summer 24-hour camp personnel are required to undergo a Level 2 screening. These screenings are processed through the Agency for Health Care Administration's (ACHA) Care Provider Background Screening Clearinghouse (Clearinghouse). The results are obtained by the Commission through DCF. This requirement does not apply to the following individuals:

1. A volunteer who assists on an intermittent basis for less than 10 hours per month if a person who meets the screening requirement of Section [409.175](#), Florida Statutes, is always present and has the volunteer in his or her line of sight. (See [IMPP 6.9](#)).
2. Certain human resource personnel, teachers, and law enforcement officers who meet the qualifications of Section [409.1757](#), Florida Statutes, and who, under the penalty of perjury, attest to the requirements of that section. Contact the Florida Youth Conservation Center Network (FYCCN) office for a copy of the Affidavit of Eligibility & Compliance with Section [409.1757](#), Florida Statutes.

#### **6.46.4 POSITIONS REQUIRING A SEXUAL PREDATOR/OFFENDER SEARCH**

Section [943.04351](#), Florida Statutes, requires an agency to conduct a search of the [Dru Sjodin National Sexual Offender Public Website](#) before making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate. Should the site not be available, a search of the [Department of Law Enforcement](#)'s site shall be conducted. This requirement does not apply to those positions or appointments within a state agency for which a state and national criminal history background check is conducted.

#### **6.46.5 ELECTRONIC FINGERPRINTING**

Division/Offices (D/Os) shall have criminal history record checks processed through Daon Trusted Identity Services or other Commission-approved vendors. The Division of Law Enforcement may also utilize law enforcement agencies to obtain criminal history record checks of employees in their division.

#### **6.46.6 CRIMINAL HISTORY RECORD**

- A. Except for convictions of crimes related to drug offenses (as required in Section [775.16](#), Florida Statutes) no applicant or employee shall be disqualified from or removed from employment solely because of a prior conviction for a crime. However, a person may be denied employment if the crime was a felony or first-degree misdemeanor and is directly related to the position sought or the crime committed including a violent offense as defined in Chapter [775](#), Florida Statutes or included intentional destruction of property.
- B. Failure to truthfully disclose criminal history information as required on the State of Florida employment application may result in termination.
- C. In accordance with [IMPP 6.1.6.D.\(44\)](#), employees placed under arrest or who receive a notice to appear for any type of criminal violation, or who receive a citation for a civil infraction related to a Commission rule, while on or off duty, shall ensure a chain-of-command supervisor is notified no later than 48 hours after the arrest or receipt of the notice to appear or citation. The supervisor shall immediately notify the Office of Inspector General and the Director of the Office of Human Resources. Employees shall also notify a chain of command supervisor of any arrest that occurred or citation that was received subsequent to submitting their state employment application for employment with the Commission.
  - a. First occurrence - Written reprimand, suspension up to 30 work days, or dismissal.
  - b. Second occurrence - Suspension up to 30 work days or dismissal

- c. Third occurrence – Dismissal
- d. The Commission’s Inspector General and the Director of Human Resources must be contacted prior to terminating an employee under this section.

**6.46.7 REASONABLE SUSPICION CHECKS**

If the agency has reason to believe an employee failed to disclose a conviction on an application for an agency position, the employee shall be required to submit to an employee criminal history check. Only a D/O director or the Chief of Staff may order a reasonable suspicion check upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question.

**6.46.8 DISCLOSURE IN JOB VACANCY ADVERTISEMENT**

The job advertisement for a position that requires a criminal history check must include the following statement in the vacancy announcement:

“Employment in this position is contingent upon a satisfactory criminal history check. The criminal history check must be completed prior to or within the first thirty days of employment.”

**FORMS**

FORM NUMBER	FORM TITLE

Approved: Thomas H. Eason  
Eric Sutton, Executive Director or Designee

Date: February 23, 2018

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