



Family, Children and Adult Services Manual Transmittal Letter No. 567

December 1, 2024

TO: Family, Children and Adult Services Manual Holders

FROM: Kara B. Wente, DCY Director
Matt Damschroder, ODJFS Director

SUBJECT: Amendments to Background Checks OAC Rule 5101:2-5-09.1

This letter transmits amendments to one Ohio Administrative Code (OAC) rule and appendices. This rule is amending changes that went into effect on April 1, 2024 regarding the rehabilitative criteria for criminal background checks referenced. This rule will be effective December 1, 2024.

The following is a brief summary of the changes:

OAC 5101:2-5-09.1 entitled Background checks for college interns, subcontractors, volunteers, employees, board presidents, officers, administrators and foster caregivers provides guidance on conducting criminal checks for those individuals listed in this rule. Paragraphs (E)(1), (E)(2), and (M) were amended to correct rule citations and paragraph (I)(1) to update appendix citations) to reference the corresponding rehabilitation criteria in appendices C and D.

Appendices A and B were updated to provide the following guidance:

- ORC 2919.25 (Domestic Violence), agencies are to only consider a felony conviction as a non-rehabilitative offense if the victim was a spouse. Other misdemeanor and felony convictions of domestic violence are to be evaluated using the rehabilitative criteria in Appendices C and D of OAC 5101:2-5-09.1.
- ORC 2903.06 (Aggravated Vehicular Homicide), ORC 2905.05 (Criminal Child Enticement), ORC 2907.04 (Unlawful Sexual Conduct with a Minor), ORC 2907.31 (Disseminating Matter Harmful to Juveniles), ORC 2919.22 Endangering Children) agencies are to only consider a felony conviction as a non-rehabilitative offense. Misdemeanor convictions are to be evaluated using the rehabilitative criteria in Appendices C and D of OAC 5101:2-5-09.1.
- Sections in which felony or misdemeanor offenses do not exist have been marked N/A as rehabilitative criteria does not apply.

INSTRUCTIONS:

The following chart indicates the materials that should be removed from the Family, Children and Adult Service Manual (FCASM) and the materials that are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Foster Care Licensing	5101:2-5-09.1	5101:2-5-09.1
Transmittal Letters		FCASMTL No. 567

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5101:2-5-09.1

Background checks for college interns, subcontractors, volunteers, employees, board presidents, officers, administrators and foster caregivers.

(A) Types of background checks:

- (1) Bureau of criminal investigation (BCI) records pursuant to section 2151.86 of the Revised Code.
- (2) Federal bureau of investigation (FBI) records pursuant to section 2151.86 of the Revised Code. This check is to be completed for all initial checks and optional thereafter.
- (3) National sex offender registry. The website is located at: <https://www.nsopw.gov/>.
- (4) Ohio statewide automated child welfare information system (Ohio SACWIS) records for alleged perpetrator.

(B) If an individual previously resided in a state other than Ohio:

- (1) The agency is to contact any states in which the individual resided in the previous five years to request the information specified in paragraph (A) of this rule.
- (2) Any information received from other states will be reviewed and considered by the agency as part of the background check review.

(C) Background checks are to be completed for the following:

- (1) An employee of a private child placing agency (PCPA), private noncustodial agency (PNA) or a local public entity (LPE).
- (2) A board president, administrator or officer of a PCPA, PNA or LPE.
- (3) Staff of a residential center operated by a public children services agency (PCSA).
- (4) A college intern, subcontractor or volunteer.
- (5) A foster care applicant or caregiver.
- (6) All household members eighteen years of age or older in a foster care applicant or caregiver's home.

(D) A PCPA, PNA, residential center operated by a PCSA or LPE is to also conduct a background check of the following for each board president, administrator or officer:

- (1) A certified search of the findings for recovery database. The website is located at: <http://ffr.ohioauditor.gov/>.
- (2) A database review at the federal website known as the system for award management. The website is located at: <https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>.

(E) The agency may refuse to hire or appoint a person as a board president, administrator or officer as follows:

- (1) Based solely on the findings of the summary report as described in paragraph ~~(A)(5)(A)(4)~~ of this rule or the results of the search described in paragraph (A) (3) ~~or (A)(4)~~ of this rule.
- (2) Based on the results of the certified search or database review as described in paragraphs ~~(E)(1)(D)(1)~~ and ~~(E)(2)(D)(2)~~ of this rule.

(F) Timeframes for completion of background checks.

- (1) For BCI and FBI records:
 - (a) At application for a foster caregiver and household members.
 - (b) Prior to the first day of employment for board president, administrator, officer or prospective employees of a PCPA, PNA or LPE.
 - (c) Prior to the first day of work for a college intern, subcontractor or volunteer.
 - (d) Every four years from the completed date of the most recent BCI records check for:
 - (i) A foster caregiver, or adult household member in a foster caregiver's home.
 - (ii) A college intern, subcontractor or volunteer.
 - (iii) A board president, administrator, officer, or employee of a PCPA, PNA, residential center operated by a PCSA or LPE.
 - (e) For a minor household member in a foster caregiver's home, within thirty days from when the minor turns eighteen years old and every four years thereafter. The agency may conduct a check sooner than four years after the initial check in order to align the timeframe with the other household members.

(2) For all background checks other than BCI or FBI:

- (a) For a foster caregiver and household members, at application and every four years thereafter.
- (b) Prior to the first day of employment for board president, administrator, officer or prospective employees of a PCPA, PNA, residential center operated by a LPE.
- (c) Prior to the first day of work for a college intern, subcontractor or volunteer.

(G) Process for obtaining a criminal background check. The agency is to:

- (1) Submit fingerprints manually or electronically according to the process established by BCI. Information on how to obtain a background check can be found at <https://www.ohioattorneygeneral.gov/Business/Services-for-Business/WebCheck>.
- (2) Pay to BCI the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted.
- (3) The agency may charge a person subject to a criminal records check, a fee for the costs incurred in obtaining a criminal records check. Pursuant to division (D) of section 2151.86 of the Revised Code, a fee charged by the agency is not to exceed the fee paid by the agency to BCI. If a fee is charged, the agency is to notify the person at the time of initial application of the amount of the fee and that, unless the fee is paid, the person will not be considered for appointment, employment or certification as a foster caregiver.

(H) If an individual fails to complete the full background check determination process:

- (1) The foster care applicant is to be denied certification pursuant to rule 5101:2-5-26 of the Administrative Code.
- (2) The foster caregiver certification is to be revoked pursuant to rule 5101:2-5-26 of the Administrative Code.
- (3) The intern, volunteer, subcontractor, employee, board president, administrator or officer of a residential center operated by a PCSA, PCPA, PNA or LPE is to be denied a position with the agency.

(I) An individual will be ineligible to be a foster caregiver with any agency, or a college intern, subcontractor, volunteer, employee, board president or administrator of a

PCPA, PNA, residential center operated by a PCSA or LPE if any of the following are applicable:

- (1) A conviction or guilty plea to an offense listed in division (A)(4) of section 109.572 of the Revised Code, unless the individual meets the rehabilitation criteria in appendix ~~AC~~ of this rule for a foster care applicant, a foster caregiver and household members of a foster care applicant or foster caregiver's home or appendix ~~BD~~ of this rule for a college intern, subcontractor, volunteer, employee, board president or administrator of a PCPA, PNA, residential center operated by a PCSA or LPE.
 - (a) Section 109.572 of the Revised Code specifies that this rule applies to records of convictions that have been sealed pursuant to section 2953.32 of the Revised Code.
 - (b) A conviction of or a plea of guilty to an offense listed in division (A)(4) of section 109.572 of the Revised Code is not prohibitive if the individual has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. For purposes of this rule, "unconditional pardon" includes a conditional pardon to which all conditions have been performed or have transpired.
- (2) Being registered or obligated to be registered on the national or state sex offender registry or repository.

(J) Ohio SACWIS alleged perpetrator search.

- (1) For any college intern, subcontractor, volunteer, employee, board president or administrator of a PCPA, PNA, or residential center operated by a PCSA or LPE, the agency is to conduct an alleged perpetrator search pursuant to section 5103.0310 of the Revised Code. The individual is ineligible if:
 - (a) They have a substantiated finding within the last ten years,
 - (b) They have had a child removed from their home in the last ten years pursuant to section 2151.353 of the Revised Code due to a court determination of abuse or neglect caused by that specific person.
 - (c) While employed or working, they are identified in Ohio SACWIS as the perpetrator for a substantiated finding of child abuse or neglect.

(2) For any foster caregiver applicant, foster caregiver or any adult household member of an applicant's or caregiver's household, the agency is to conduct an alleged perpetrator search pursuant to section 5103.18 of the Revised Code.

(K) The recommending agency is to evaluate if the foster home should continue to be recommended for certification or be recommended for denial or revocation of certification when a person who is certified as a foster caregiver, or is a household member in a certified caregiver's home is convicted of any offense listed in appendix A to this rule.

(1) The evaluation is to begin within five days of the agency's knowledge of the person's conviction, be completed within thirty days, and be documented in the foster home's record.

(2) At a minimum, the provisions of paragraph (L) of this rule is to be considered in the evaluation.

(3) This requirement is also to be applicable for any adult who resides with a foster caregiver upon conviction of any offense listed in appendix A to this rule.

(L) The evaluation specified by paragraph (K) of this rule is to include, at a minimum:

(1) Whether there are children currently placed in the foster home and the impact of disruption on the children if moved.

(2) Whether rehabilitation of the individual had to be considered for initial certification.

(3) The length of time of certification prior to this conviction.

(4) The factors outlined in appendix C to this rule.

(M) Rehabilitation criteria for criminal offenses. Unless specifically disqualified in appendix A or appendix B to this rule:

(1) A foster caregiver or an adult resident of the foster caregiver's household is to meet all of the rehabilitation conditions in appendix C to this rule.

(2) An employee, board president or administrator of a PCPA, PNA, residential center operated by a PCSA or LPE is to meet all of the rehabilitation conditions in appendix D to this rule.

(N) It is the individual's duty to provide written verification that the rehabilitation criteria specified in paragraph ~~(L)~~(M) of this rule are met. If the individual fails to provide

proof or if the agency determines that the proof offered by the individual is inconclusive or insufficient, the person is not to be certified as a foster caregiver or hired by the agency. Any doubt is to be resolved in favor of protecting the children the agency serves.

Effective: 12/1/2024

Five Year Review (FYR) Dates: 4/1/2029

CERTIFIED ELECTRONICALLY

Certification

11/21/2024

Date

Promulgated Under: 119.03
Statutory Authority: 2151.86, 5103.03, 5103.0310, 5103.037, 5103.18
Rule Amplifies: 109.572, 2151.86, 5103.0310, 5153.11, 5153.111
Prior Effective Dates: 09/18/1996, 01/01/2003, 08/14/2008, 04/01/2010,
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04/01/2024

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<p style="text-align: center;"><u>Non-rehabilitative felony offenses.</u></p> <p><u>Misdemeanor offenses must be evaluated using the rehabilitative criteria in Appendix C of this rule but are not automatically disqualifying.</u></p>			
<u>ORC</u>	<u>Offense</u>	<u>Misdemeanor</u>	<u>Felony</u>
<u>2903.01</u>	<u>Aggravated murder</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.02</u>	<u>Murder</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.03</u>	<u>Voluntary manslaughter</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.04</u>	<u>Involuntary manslaughter</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.041</u>	<u>Reckless homicide</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.06</u>	<u>Aggravated Vehicular Homicide; vehicular homicide; vehicular manslaughter</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2903.32</u>	<u>Female genital mutilation</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2905.05</u>	<u>Criminal child enticement</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2905.32</u>	<u>Trafficking in persons</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.02</u>	<u>Rape</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.03</u>	<u>Sexual battery</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.04</u>	<u>Unlawful sexual conduct with a minor</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.05</u>	<u>Gross sexual imposition</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.12</u>	<u>Felonious sexual penetration (as this former section of law existed)</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.19</u>	<u>Commercial sexual exploitation of a minor</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2907.21</u>	<u>Compelling prostitution</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.31</u>	<u>Disseminating matter harmful to juveniles</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.321</u>	<u>Pandering obscenity involving a minor</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.322</u>	<u>Pandering sexually oriented matter involving a minor</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2907.323</u>	<u>Illegal use of a minor in nudity-oriented material or performance</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.10</u>	<u>Abortion related to finding of down syndrome</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.12</u>	<u>Unlawful abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.121</u>	<u>Unlawful abortion upon a minor</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2919.123</u>	<u>Unlawful distribution of an abortion-inducing drug</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.124</u>	<u>Unlawful performance of a drug induced abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.13</u>	<u>Abortion manslaughter; failure to render medical care to an infant born alive</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.15</u>	<u>Dismemberment abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.151</u>	<u>Partial birth feticide</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.17</u>	<u>Terminating or attempting to terminate human pregnancy after viability</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.193</u>	<u>Determination of detectable fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.194</u>	<u>Procedures after detection of fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2919.195</u>	<u>Performance of abortion after detection of fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.201</u>	<u>Abortion after gestational age of 20 weeks</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.22</u>	<u>Endangering children</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.25</u>	<u>Domestic violence</u>	✓	<u>Non-rehabilitation offense, if considered spousal abuse - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<p><u>Non-rehabilitative offense if felony conviction occurred within the last five years.</u></p> <p><u>Felony convictions after five years and misdemeanor offenses must be evaluated using the rehabilitative criteria in Appendix C of this rule but are not automatically disqualifying.</u></p>			
<u>2903.08</u>	<u>Aggravated Vehicular Assault; Vehicular Assault</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2903.11</u>	<u>Felonious assault</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2903.12</u>	<u>Aggravated assault</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2903.13</u>	<u>Assault</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2925.02</u>	<u>Corrupting another with drugs</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.03</u>	<u>Trafficking, aggravated trafficking in drugs</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.04</u>	<u>Illegal manufacture of drugs or cultivation of marijuana</u>	✓	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.041</u>	<u>Illegal assembly or possession of chemicals for manufacture of drugs</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.05</u>	<u>Funding of drug or marijuana trafficking</u>	N/A	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2925.06</u>	<u>Illegal administration or distribution of anabolic steroids</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.11</u>	<u>Possession of controlled substances</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.13</u>	<u>Permitting drug abuse</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.22</u>	<u>Deception to obtain a dangerous drug</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.23</u>	<u>Illegal processing of drug documents</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>2925.24</u>	<u>Tampering with drugs</u>	<u>N/A</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.31</u>	<u>Abusing harmful intoxicants</u>	<u>✓</u>	<u>Non-rehabilitation offense - Caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.32</u>	<u>Trafficking in harmful intoxicants – improperly dispensing or distributing nitrous oxide</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.36</u>	<u>Illegal dispensing of drug samples</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>
<u>2925.37</u>	<u>Counterfeit controlled substance offenses</u>	<u>✓</u>	<u>Non-rehabilitation offense - caregiver cannot be approved if conviction occurred within the last five years</u>

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

<u>All other offenses marked with a ✓ that must be evaluated using the rehabilitative criteria in Appendix C of this rule .</u>			
<u>959.13</u>	<u>Cruelty to animals</u>	✓	<u>N/A</u>
<u>2151.421</u>	<u>Reporting child abuse or neglect</u>	✓	<u>N/A</u>
<u>2903.15</u>	<u>Permitting child abuse</u>	✓	✓
<u>2903.16</u>	<u>Failing to provide for a functionally impaired person</u>	✓	✓
<u>2903.21</u>	<u>Aggravated menacing</u>	✓	✓
<u>2903.211</u>	<u>Menacing by stalking</u>	✓	✓
<u>2903.22</u>	<u>Menacing</u>	✓	✓
<u>2903.34</u>	<u>Patient abuse, neglect</u>	✓	✓
<u>2905.01</u>	<u>Kidnapping</u>	<u>N/A</u>	✓
<u>2905.02</u>	<u>Abduction</u>	<u>N/A</u>	✓
<u>2905.11</u>	<u>Extortion</u>	<u>N/A</u>	✓
<u>2907.06</u>	<u>Sexual imposition</u>	✓	✓
<u>2907.07</u>	<u>Importuning</u>	<u>N/A</u>	✓
<u>2907.08</u>	<u>Voyeurism</u>	✓	✓
<u>2907.09</u>	<u>Public indecency</u>	✓	✓
<u>2907.22</u>	<u>Promoting prostitution</u>	<u>N/A</u>	✓
<u>2907.23</u>	<u>Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another</u>	✓	✓
<u>2907.25</u>	<u>Prostitution – after positive HIV test</u>	<u>N/A</u>	✓
<u>2907.32</u>	<u>Pandering obscenity</u>	<u>N/A</u>	✓
<u>2909.02</u>	<u>Aggravated arson</u>	<u>N/A</u>	✓
<u>2909.03</u>	<u>Arson</u>	✓	✓
<u>2909.22</u>	<u>Soliciting or providing support for act of terrorism</u>	✓	✓
<u>2909.23</u>	<u>Making terroristic threat</u>	<u>N/A</u>	✓
<u>2909.24</u>	<u>Terrorism</u>	<u>One degree higher than the most serious underlying specified offense the defendant committed (If the offense was a third-degree felony, the terrorism charge related to that offense would be a second degree felony) This could be a disqualifying offense if the original charge was a non-rehabilitative crime listed above.</u>	
<u>2911.01</u>	<u>Aggravated robbery</u>	<u>N/A</u>	✓
<u>2911.02</u>	<u>Robbery</u>	<u>N/A</u>	✓
<u>2911.11</u>	<u>Aggravated burglary</u>	<u>N/A</u>	✓
<u>2911.12</u>	<u>Burglary</u>	<u>N/A</u>	✓
<u>2913.49</u>	<u>Identity Fraud</u>	<u>N/A</u>	✓
<u>2917.01</u>	<u>Inciting to violence</u>	✓	✓
<u>2917.02</u>	<u>Aggravated riot</u>	<u>N/A</u>	✓
<u>2919.21</u>	<u>Nonsupport or contributing to</u>	<u>N/A</u>	✓

DISQUALIFYING OFFENSES FOR FOSTER CAREGIVERS AND HOUSEHOLD MEMBERS

	<u>nonsupport of dependents</u>		
<u>2919.23</u>	<u>Interference with custody (that would have been a violation of RC 2905.04 as it existed prior to July 1, 1996 if violation had been committed prior to that date)</u>	✓	✓
<u>2919.24</u>	<u>Contributing to unruliness or delinquency of a child</u>	✓	N/A
<u>2919.27</u>	<u>Violating protection order</u>	N/A	✓ If special circumstances exist, as described in 2919.27(B)(3) or (4)
<u>2923.12</u>	<u>Carrying concealed weapons</u>	✓	✓
<u>2923.13</u>	<u>Having weapons while under disability</u>	N/A	✓
<u>2923.161</u>	<u>Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function</u>	N/A	✓
<u>2923.17</u>	<u>Unlawful possession of dangerous ordnance – illegally manufacturing or processing explosives</u>	N/A	✓
<u>2923.21</u>	<u>Improperly furnishing firearms to minor</u>	N/A	✓
<u>2923.42</u>	<u>Participating in criminal gang</u>	N/A	✓
<u>2927.12</u>	<u>Ethnic intimidation</u>	✓	✓
<u>3716.11</u>	<u>Placing harmful objects in food or confection</u>	✓	N/A
<u>4511.19</u>	<u>Operating vehicle under the influence of alcohol or drugs – OVI or OVIAC</u>	✓ Only a disqualifying offense if two or more violations have been committed within the past 3 years	✓ Only a disqualifying offense if two or more violations have been committed within the past 3 years
<u>A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in this appendix.</u>			

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES, BOARD PRESIDENTS,

<u>Non-rehabilitative felony offenses.</u> <u>Misdemeanor convictions marked with a ✓ must be evaluated using the rehabilitation criteria in appendix D of rule 5101:2-5-09.1, but are not automatically disqualifying.</u>			
<u>ORC</u>	<u>Offense</u>	<u>Misdemeanor</u>	<u>Felony</u>
2903.01	Aggravated murder	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.02	Murder	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.03	Voluntary manslaughter	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.04	Involuntary manslaughter	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.041	Reckless homicide	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.06	Aggravated Vehicular Homicide; vehicular homicide; vehicular manslaughter	✓	<u>Non-rehabilitation offense - employee cannot be approved</u>
2903.32	Female genital mutilation	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES, BOARD PRESIDENTS,

<u>2905.05</u>	<u>Criminal child enticement</u>	✓	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2905.32</u>	<u>Trafficking in persons</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.02</u>	<u>Rape</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.03</u>	<u>Sexual battery</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.04</u>	<u>Unlawful sexual conduct with a minor</u>	✓	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.05</u>	<u>Gross sexual imposition</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.12</u>	<u>Felonious sexual penetration (as this former section of law existed)</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.19</u>	<u>Commercial sexual exploitation of a minor</u>	N/A	<u>Non-rehabilitation offense - employee cannot be approved</u>

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES,
BOARD PRESIDENTS,

<u>2907.21</u>	<u>Compelling prostitution</u>	<u>N/A</u>	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.31</u>	<u>Disseminating matter harmful to juveniles</u>	<u>✓</u>	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.321</u>	<u>Pandering obscenity involving a minor</u>	<u>N/A</u>	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.322</u>	<u>Pandering sexually oriented matter involving a minor</u>	<u>N/A</u>	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2907.323</u>	<u>Illegal use of a minor in nudity-oriented material or performance</u>	<u>N/A</u>	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2919.10</u>	<u>Abortion related to finding of down syndrome</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.12</u>	<u>Unlawful abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES,
BOARD PRESIDENTS,

<u>2919.121</u>	<u>Unlawful abortion upon a minor</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.123</u>	<u>Unlawful distribution of an abortion-inducing drug</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.124</u>	<u>Unlawful performance of a drug induced abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.13</u>	<u>Abortion manslaughter: failure to render medical care to an infant born alive</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.15</u>	<u>Dismemberment abortion</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.151</u>	<u>Partial birth feticide</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.17</u>	<u>Terminating or attempting to terminate human pregnancy after viability</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.193</u>	<u>Determination of detectable fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES, BOARD PRESIDENTS,

<u>2919.194</u>	<u>Procedures after detection of fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.195</u>	<u>Performance of abortion after detection of fetal heartbeat</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.201</u>	<u>Abortion after gestational age of 20 weeks</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>	<u>Non-rehabilitation offense - caregiver cannot be approved</u>
<u>2919.22</u>	<u>Endangering children</u>	✓	<u>Non-rehabilitation offense - employee cannot be approved</u>
<u>2919.25</u>	<u>Domestic violence</u>	✓	<u>Non-rehabilitation offense, if considered spousal abuse - employee cannot be approved</u>
<u>All other offenses marked with a ✓ that must be evaluated using the rehabilitative criteria in Appendix D of this rule.</u>			
<u>959.13</u>	<u>Cruelty to animals</u>	✓	<u>N/A</u>
<u>2151.421</u>	<u>Reporting child abuse or neglect</u>	✓	<u>N/A</u>
<u>2903.08</u>	<u>Aggravated Vehicular Assault; Vehicular Assault</u>	✓	✓
<u>2903.11</u>	<u>Felonious assault</u>	<u>N/A</u>	✓
<u>2903.12</u>	<u>Aggravated assault</u>	<u>N/A</u>	✓
<u>2903.13</u>	<u>Assault</u>	✓	✓

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES,
BOARD PRESIDENTS,

<u>2903.15</u>	<u>Permitting child abuse</u>	✓	✓
<u>2903.16</u>	<u>Failing to provide for a functionally impaired person</u>	✓	✓
<u>2903.21</u>	<u>Aggravated menacing</u>	✓	✓
<u>2903.211</u>	<u>Menacing by stalking</u>	✓	✓
<u>2903.22</u>	<u>Menacing</u>	✓	✓
<u>2903.34</u>	<u>Patient abuse, neglect</u>	✓	✓
<u>2905.01</u>	<u>Kidnapping</u>	N/A	✓
<u>2905.02</u>	<u>Abduction</u>	N/A	✓
<u>2905.11</u>	<u>Extortion</u>	N/A	✓
<u>2907.06</u>	<u>Sexual imposition</u>	✓	✓
<u>2907.07</u>	<u>Importuning</u>	N/A	✓
<u>2907.08</u>	<u>Voyeurism</u>	✓	✓
<u>2907.09</u>	<u>Public indecency</u>	✓	✓
<u>2907.22</u>	<u>Promoting prostitution</u>	N/A	✓
<u>2907.23</u>	<u>Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another</u>	✓	✓
<u>2907.25</u>	<u>Prostitution – after positive HIV test</u>	N/A	✓
<u>2907.32</u>	<u>Pandering obscenity</u>	N/A	✓
<u>2909.02</u>	<u>Aggravated arson</u>	N/A	✓
<u>2909.03</u>	<u>Arson</u>	✓	✓

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES, BOARD PRESIDENTS,

<u>2909.22</u>	<u>Soliciting or providing support for act of terrorism</u>	✓	✓
<u>2909.23</u>	<u>Making terroristic threat</u>	N/A	✓
<u>2909.24</u>	<u>Terrorism</u>	<u>One degree higher than the most serious underlying specified offense the defendant committed (If the offense was a third-degree felony, the terrorism charge related to that offense would be a second-degree felony) This could be a disqualifying offense if the original charge was a non-rehabilitative crime listed above.</u>	
<u>2911.01</u>	<u>Aggravated robbery</u>	N/A	✓
<u>2911.02</u>	<u>Robbery</u>	N/A	✓
<u>2911.11</u>	<u>Aggravated burglary</u>	N/A	✓
<u>2911.12</u>	<u>Burglary</u>	N/A	✓
<u>2913.49</u>	<u>Identity Fraud</u>	N/A	✓
<u>2917.01</u>	<u>Inciting to violence</u>	✓	✓
<u>2917.02</u>	<u>Aggravated riot</u>	N/A	✓
<u>2919.21</u>	<u>Nonsupport or contributing to nonsupport of dependents</u>	N/A	✓
<u>2919.23</u>	<u>Interference with custody (that would have been a violation of RC 2905.04 as it existed prior to July 1, 1996 if violation had been committed prior to that date)</u>	✓	✓
<u>2919.24</u>	<u>Contributing to unruliness or delinquency of a child</u>	✓	N/A
<u>2919.27</u>	<u>Violating protection order</u>	N/A	<u>If special circumstances exist, as described in 2919.27(B)(3) or (4)</u>

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES,
BOARD PRESIDENTS,

<u>2923.12</u>	<u>Carrying concealed weapons</u>	✓	✓
<u>2923.13</u>	<u>Having weapons while under disability</u>	N/A	✓
<u>2923.161</u>	<u>Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function</u>	N/A	✓
<u>2923.17</u>	<u>Unlawful possession of dangerous ordnance – illegally manufacturing or processing explosives</u>	N/A	✓
<u>2923.21</u>	<u>Improperly furnishing firearms to a minor</u>	N/A	✓
<u>2923.42</u>	<u>Participating in criminal gang</u>	N/A	✓
<u>2925.02</u>	<u>Corrupting another with drugs</u>	N/A	✓
<u>2925.03</u>	<u>Trafficking, aggravated trafficking in drugs</u>	✓	✓
<u>2925.04</u>	<u>Illegal manufacture of drugs or cultivation of marijuana</u>	✓	✓
<u>2925.041</u>	<u>Illegal assembly or possession of chemicals for manufacture of drugs</u>	N/A	✓
<u>2925.05</u>	<u>Funding of drug or marijuana trafficking</u>	N/A	✓
<u>2925.06</u>	<u>Illegal administration or distribution of anabolic steroids</u>	N/A	✓
<u>2925.11</u>	<u>Possession of a controlled substance</u>	✓	✓
<u>2925.13</u>	<u>Permitting drug abuse</u>	✓	✓
<u>2925.22</u>	<u>Deception to obtain a dangerous drug</u>	N/A	✓
<u>2925.23</u>	<u>Illegal processing of drug documents</u>	N/A	✓
<u>2925.24</u>	<u>Tampering with drugs</u>	N/A	✓
<u>2925.31</u>	<u>Abusing harmful intoxicants</u>	✓	✓

DISQUALIFYING OFFENSES FOR COLLEGE INTERN, SUBCONTRACTORS, VOLUNTEERS, EMPLOYEES,
BOARD PRESIDENTS,

<u>2925.32</u>	<u>Trafficking in harmful intoxicants – improperly dispensing or distributing nitrous oxide</u>	✓	✓
<u>2925.36</u>	<u>Illegal dispensing of drug samples</u>	✓	✓
<u>2925.37</u>	<u>Counterfeit controlled substance offenses</u>	✓	✓
<u>2927.12</u>	<u>Ethnic intimidation</u>	✓	✓
<u>3716.11</u>	<u>Placing harmful objects in food or confection</u>	✓	<u>N/A</u>
<u>4511.19</u>	<u>Operating vehicle under the influence of alcohol or drugs – OVI or OVUAC</u>	✓ <u>Only a disqualifying offense if two or more violations have been committed within the past 3 years</u>	✓ <u>Only a disqualifying offense if two or more violations have been committed within the past 3 years</u>
<p><u>A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in this appendix.</u></p>			

Rehabilitation criteria for foster applicants, foster caregivers, adoptive applicants, adoptive parents and household members. The individual can not be approved or certified unless the recommending agency finds and documents that the person has met all of the following conditions:

- (1) The victim of the offense was not a person under the age of eighteen.
- (2) The person's certification as a foster caregiver, approval as an adoptive parent or the person's residency in the foster caregiver's or adoptive parent's household will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors are to be considered in determining the person's certification as a foster caregiver, approval as an adoptive parent or the person's residency in the foster caregiver's or adoptive parent's household.
 - (a) The person's age at the time of the offense.
 - (b) The nature and seriousness of the offense.
 - (c) The circumstances under which the offense was committed.
 - (d) The degree of participation of the person involved in the offense.
 - (e) The time elapsed since the person was fully discharged from imprisonment or probation.
 - (f) The likelihood that the circumstance leading to the offense will recur.
 - (g) Whether the person is a repeat offender.
 - (h) The person's employment record.
 - (i) The person's efforts at rehabilitation and the results of those efforts.
 - (j) Whether any criminal proceedings are pending against the person.
 - (k) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in appendix A to this rule, if the felony bears a direct and substantial relationship to being a foster caregiver, adoptive parent or adult members of the foster caregiver's or adoptive parent's household.
 - (l) The victim of the offense was:
 - (i) A functionally impaired person as defined in section 2903.10 of the Revised Code.

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- (ii) A developmentally disabled person as defined in section 5123.01 of the Revised Code.
- (iii) A person with a mental illness as defined in section 5122.01 of the Revised Code.
- (iv) A person sixty years of age or older.

(m) Any other factors the agency considers relevant.

Rehabilitation criteria for employees, college interns, subcontractors, volunteers, board presidents, administrators or officers. The individual cannot be employed unless the agency finds and documents that the person has met all of the following conditions:

- (1) Where the offense was a misdemeanor, or would have been a misdemeanor if conviction had occurred under the current criminal code, at least three years have elapsed from the date the prospective employee was fully discharged from any imprisonment or probation arising from the conviction. A prospective employee who has had a misdemeanor record of conviction sealed by a court pursuant to section 2953.32 of the Revised Code are to be considered to have met this condition.
- (2) Where the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation.
- (3) The victim of the offense was not one of the following:
 - (a) A person under the age of eighteen or person sixty years of age or older.
 - (b) A functionally impaired person as defined in section 2903.10 of the Revised Code.
 - (c) An intellectually disabled person as defined in section 5123.01 of the Revised Code.
 - (d) A developmentally disabled person as defined in section 5123.01 of the Revised Code.
 - (e) A person with a mental illness as defined in section 5122.01 of the Revised Code.
- (4) Hiring the prospective employee will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors are to be considered in determining whether to hire the prospective employee:
 - (a) The person's age at the time of the offense.
 - (b) The nature and seriousness of the offense.
 - (c) The circumstances under which the offense was committed.
 - (d) The degree to which the person participated in the offense.
 - (e) The time elapsed since the person was fully discharged from imprisonment or probation.
 - (f) The likelihood that the circumstances leading to the offense will recur.
 - (g) Whether the person is a repeat offender.
 - (h) The person's employment record.

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- (i) The person's efforts at rehabilitation and the results of those efforts.
- (j) Whether any criminal proceedings are pending against the person.
- (k) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in appendix B of this rule, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled.
- (l) Any other factors the agency considers relevant.