



## SUBGRANTEE PROCEDURE

### MONTANA BOARD OF CRIME CONTROL

#### EXAMPLE POLICY - DETERMINATION OF SUITABILITY TO INTERACT WITH MINORS

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#### I. Purpose

As part of the requirements of receiving federal grant funds, [Agency] must make a written determination of suitability before covered individuals may interact with participating minors, at most 6 months before hiring/contracting, and every five years thereafter. This determination must be completed every five years. [Agency] will keep a written record that, based on the information gathered, the individual is suitable to interact with minors and this documentation and included in the appropriate grant file. Therefore, [Agency] has the following policies and procedures for compliance with this requirement.

#### II. Definitions

Covered Individual – any individual (other than a participating minor or a client of [Agency] who is expected, or reasonably likely, to interact with any individuals under 18 years of age who participates in the program activities funded by a federal award. A covered individual might be an employee, a consultant, contractor, employee of a contractor, trainee, volunteer, or teacher.

Interaction – physical contact, oral, and written communication, and the transmission of images and sound, and may be in person or by electronic (or similar) means. Interaction does not include:

- Brief contact that is both unexpected and unintentional on the part of the covered individual, such as might occur when a postal carrier delivers mail to an administrative office.
- Personally-accompanied contact, that is, infrequent or occasional contact (for example, by someone who comes to make a presentation) in the presence of an individual who has been determined suitable to interact with participating minors. Throughout such contact, an appropriate adult who has been determined to be suitable pursuant to this policy will closely and personally accompany, and remain continuously within view and earshot of, such visitor.

Participating Minor - All individuals under 18 years of age within the set of individuals described in the scope section of this condition as it appears on the award document are participating minors.

#### III. Procedures

##### A. Determination of Suitability

1. [Agency] will not permit any covered individual to interact with any participating minor in the course of activities under the award, unless [Agency] first has made written determination of the suitability of that individual to interact with participating minors.
2. In addition to information resulting from checks or screening required by applicable federal, state, tribal, or local law, and/or by [Agency] written policies and procedures, current and appropriate information includes the results of all required searches listed below, each of which must be completed no earlier than six months before the determination regarding suitability.
  - Public sex offender and child abuse websites/registries including:

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- The Montana Sex Offender registry and/or the state/public registry for each state (and/or tribe, if applicable) in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and
- The Dru Sjodin National Sex Offender Public Website ([www.nsopw.gov](http://www.nsopw.gov))
- Criminal history registries and similar repositories of criminal history records.
  - For each covered individual at least 18 years of age, a fingerprint search (or, if the subgrantee documents that a fingerprint search is not legally available, a name-based search, using current, and if applicable, previous names and aliases) – encompassing at least the time period beginning five calendar years preceding the date of the search request – of pertinent (and if applicable, local and tribal) criminal history registries or similar repositories, including:
    - The criminal history registry for each state in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and
    - The criminal history registry for each state in which he or she is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award
- 3. [Agency] will, at least every five years, update the searches described above, reexamine the covered individual’s suitability determination in light of those search results, and, if appropriate, modify or withdraw that determination.
- 4. [Agency] will also reexamine a covered individual’s suitability determination upon learning of information that reasonably may suggest unsuitability and, if appropriate, modify or withdraw that determination.

## **B. Determination of Unsuitability**

1. In particular (unless applicably law precludes it), with respect to either an initial determination of suitability or a subsequent reexamination, [Agency] may not determine that a covered individual is suitable to interact with participating minors in the course of activities under the award if the covered individual:
  - Withholds consent to a criminal history search required by this condition;
  - Knowingly makes (or made) a false statement that affects, or is intended to affect, any search required by this condition;
  - Is listed as a registered sex offender on the Dru Sjodin National Sex Offender Public Website;
  - To the knowledge of [Agency] has been convicted, whether as a felony or misdemeanor, under federal, state, tribal, or local law of any of the following crimes (or any substantially equivalent criminal offense, regardless of the specific words by which it may be identified in law):
    - Sexual or physical abuse, neglect, or endangerment of an individual under the age of 18 at the time of the offense;
    - Rape/sexual assault, including conspiracy to commit rape/sexual assault;
    - Sexual exploitation, such as through child pornography or sex trafficking;
    - Kidnapping;
    - Voyeurism; or

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- Is determined by a federal, state, tribal, or local government agency not to be suitable. Nothing in this condition shall be understood to authorize or require [Agency] or any person or other entity, to violate any federal, state, tribal, or local law, including any applicable civil rights or nondiscretionary law.

#### **IV. Closing**

Questions concerning this procedure should be directed to your MBCC program staff point of contact.

#### **V. Attachments**