

Investigating the Character of Persons who are in Positions of Regular Contact with or Control Over Indian Children

Objectives:

1. Participants will better understand the investigation process for persons who are in positions of regular contact with or control over Indian children.
2. Participants will learn the minimum standards of character for persons working with Indian children.
3. Participants will learn the laws mandating background checks and minimum standards of character.

Activities:

1. Discuss the various issues of background checks, the pros and cons, and why they are necessary. Why is this policy in place, and does it really work?

Discussion Questions:

1. Discuss the process that is used in your tribe to investigate the character of persons working with Indian children. Is there a policy that indicates which positions must have background checks conducted prior to hiring? If not, how can you, as a Child Protection Team, request your tribe to conduct background checks?

Training Modules (Power Point Presentations):

Conducting Background Checks

Sample Guidelines for Background Checks

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Minimum standards of character are established and background investigations are conducted for all employees in positions having regular contact with or control over Indian children to ensure potentially abusive individuals are identified and precluded or removed from those positions.

Federal law requires that the Bureau of Indian Affairs, Tribes and tribal organizations establish minimum standards of character for all persons whose positions involve regular contact with or control over Indian children.

Indian Child Protection and Family Violence Prevention Act, Public Law 101-630, 25 U.S.C. § 3207

Minimum Standards of Character

Federal law requires that no person who has been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State or Tribal law that involves crimes of violence; a sex offense, more specifically sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons shall be employed in a position having regular contact with or control over Indian children. Also, an offense involving a child or drug felony may be grounds for denying employment or for dismissal from a position having regular contact with or control over Indian children. Indian Child Protection and Family Violence Prevention Act, Public Law 101-630, 25 U.S.C. § 3207, Crime Control Act, 41 U.S.C. § 12041, and 25 CFR 63.12

and

Any applicant, volunteer or employee may be disqualified from consideration or continuing employment by the Bureau of Indian Affairs in a position that involves regular contact with or control over Indian children based upon the individual's –

- Misconduct or negligence if it interfered with or affected an employer's duties or responsibilities
- Criminal or dishonest conduct if it affected the individual's performance or the performance of others
- Intentional false statements, deception or fraud on an examination or in obtaining employment
- Refusal to furnish testimony or cooperate with an investigation
- Alcohol or substance abuse of a nature or duration that suggests he/she cannot perform the duties of the position or could threaten the safety of children
- Illegal use of a controlled substance without evidence of substantial rehabilitation
- Acts or activities designed to disrupt government programs

See minimum Standards of Character and Suitability for Employment, 25 CFR Part 63, Subpart B

Character Investigations

- Employment applications must: ask if the individual has ever been arrested for or charged with a crime involving a child or found guilty of or entered a plea of nolo contendere or guilty to any offense under Federal, State or Tribal law involving crimes of violence; an offense involving a child; a sex offense, more specifically sexual assault, molestation, exploitation, contact or prostitution; a drug felony; or crimes against persons; request a description of the disposition of any arrest or charge; state that the application is signed under penalty of perjury; and obtain the signature of the individual confirming he/she was notified of the employer's obligation to require a record check as a condition of employment
- Request criminal records from tribal and state law enforcement and courts
- Confirm military service and discharge
- Verify validity of driver's license and driving record for person whose duties require a commercial driver's license or include transporting children
- Verify at least five years of employment and interview past employers and supervisors
- Interview at least three references
- Verify residence and level of education/training
- Request a National Criminal History Check from the FBI – the BIA will process criminal history background checks for tribal contract and grant schools, social services, law enforcement, mental and health services, child care programs, Headstart programs, and other programs employing persons who have regular contact with or control over Indian children.

Indian Child Protection and Family Violence Prevention Act, P.L. 101-630; 25 U.S.C. § 3207
Crime Control Act, Public Law 101-647, 42 U.S.C. § 13041
Minimum Standards of Character and Suitability for Employment, 25 CFR Part 63, Subpart B