



## Ohio Administrative Code Rule 3701-13-04 Conditional employment.

Effective: December 8, 2023

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(A) A DCP may conditionally employ an applicant for whom a criminal records check request is required under rule 3701-13-02 of the Administrative Code prior to obtaining the results of a criminal records check regarding the applicant if the following requirements are met:

(1) The DCP is prohibited from employing an applicant prior to obtaining the completed form(s) and fingerprint impression sheet(s) from the applicant as required in paragraph (F) of rule 3701-13-03 of the Administrative Code. For purposes of this prohibition, the applicant cannot perform or participate in any job related activity pertaining to a position involving the provision of direct care to an older adult that places the applicant in an active pay status.

(2) The DCP is obligated to request a criminal records check in accordance with paragraph (F) of rule 3701-13-03 of the Administrative Code by submitting the request to BCII not later than five business days after the individual begins conditional employment.

(B) The DCP may conditionally employ an applicant for whom a criminal records check is obligated to be run in accordance with rule 3701-13-02 of the Administrative Code if all of the following requirements are met:

(1) The applicant has been referred to the DCP by an employment service that supplies full-time, part-time, or temporary staff positions involving the direct care of older adults; and

(2) The chief administrator receives from the employment service a letter that:

(a) Is on the letterhead of the employment service;

(b) Is dated and signed by a supervisor or another designated official of the employment service;

(c) States that the employment service has requested the superintendent to conduct a criminal records



check regarding the applicant;

(d) States that the requested criminal records check will include a determination of whether the applicant has been convicted or pleaded guilty to any offense listed or described in rule 3701-13-05 of the Administrative Code;

(e) States that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check; and

(f) States that, when the employment service receives the results of the criminal records check, it will promptly send a copy of the results to the DCP.

(C) If a DCP conditionally employs an applicant under paragraph (B) of this rule, the employment service, upon its receipt of the results of the criminal records check, is obligated to promptly send a copy of the results to the DCP, and paragraph (D) of this rule shall apply regarding the conditional employment.

(D) The DCP is obligated to terminate the individual's conditional employment in a position involving direct care to an older adult if:

(1) The results of the criminal records check, other than the results of any request for information from the FBI, are not obtained within thirty days after the date the request is made; or

(2) The results of any part of the records check indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in paragraph (A) of rule 3701-13-05 of the Administrative Code, unless the DCP chooses to employ the applicant pursuant to the personal character standards established in rule 3701-13-06 of the Administrative Code.

(E) Termination under paragraph (D) of this rule is considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the DCP about the individual's criminal record.