

Disallowance Guide Training Exercises and Answers

The Corporation for National and Community Service (CNCS) has developed the exercises below to help Monitoring Officials and other interested parties understand and apply the National Service Criminal History Check Interim Disallowance Guide (“Disallowance Guide”) published in August 2015. This exercises are provided for training and illustration purposes only, and should not be taken as official statements on CNCS policy or practice. In the event that anything in these exercises appears inconsistent with the content of the Disallowance Guide, the Disallowance Guide is the controlling document. All individual and organizational names are intended to be fictitious. Please direct all comments or questions to CHC@cns.gov.

Exercise 1: Why Risk-Based Disallowance

First, describe in your own words the basic factors that determine the amount of disallowance in a given scenario. Now, pretend that a grantee has asked you why CNCS is utilizing this system. How would you respond?

Many answers are possible. For the first part of the question, your answer should include two key criteria:

- *The extent or scope of noncompliance relative to CNCS’ portfolio*
- *What actions a grantee has taken to mitigate risk to vulnerable populations*

For the second part of the question, you could cite many reasons, including the following:

- *This system better meets the real purpose of the requirements, which is protecting vulnerable populations. It is based on risk, not salary or time, and mitigating risk is what CNCS is primarily striving for.*
- *CNCS intends to enforce compliance consistently without undermining its overall purpose through unduly burdensome penalties that could drive good programs out of business.*
- *CNCS recognizes that noncompliance is not only a yes/no question. Grantees may take several actions to comply, but still fall short of full compliance. This approach allows for consideration of what was done, not just what was missing.*
- *The prior system treats ineligible individuals in the same manner as individuals that are eligible, but cleared through a noncompliant process. However, the costs associated with individuals that are ineligible are literally unallowable, unlike the costs associated with eligible individuals. This system establishes an enforcement mechanism that recognizes this distinction.*

Exercise 2: Ineligibility vs. Noncompliance

For each of the following scenarios, identify whether the appropriate enforcement action is:

- Corrective Action Only
- Corrective Action and the Risk-Based Disallowance Matrix OR
- Immediate removal from work or service, reporting to CHC@cns.gov and disallowance of all costs

For all examples, assume the action described occurred *after* the Assessment Period (i.e., the Assessment Period is not relevant.)

1. An organization conducted no part of the CHC process on an individual. After initiating the required checks, it is discovered that one individual in a covered position had been convicted of murder many years ago. C
2. A search of the NSOPW was run after the start of an individual's work or service. After the search was completed, there were no hits. All other CHC components were compliant. B
3. An organization completed the NSOPW on time for all individuals and initiated State and FBI checks on time for all individuals. However, individuals directly served vulnerable populations prior to receipt of the State and FBI checks. The organization claims accompaniment occurred, but cannot produce documentation. B
4. A search of the NSOPW was completed prior to the start of an individual's work or service. However, a registry was not reporting at that time, and the grantee did not fill the gap by re-running the search or going to the state registry itself. After instituting corrective action, it is confirmed that the individual is not registered as a sex offender. B
5. An individual went through all required checks on time, but the organization did not document their consent to undergo the checks. A
6. During a mini self-audit, an organization discovered that an individual in a covered position had given them a fraudulent ID. At the time of the individual's enrollment, the organization completed all required components of the CHC process and the individual cleared the checks. C

Exercise 3: Expansion of Scope

For each scenario below, describe your immediate next steps, continuing until the point when you would calculate disallowance.

1. You are on a monitoring visit to a program with seven individuals in covered positions. The first two files you review are both noncompliant.

First, inform the grantee and have them implement corrective action to get into compliance. You must also expand the scope. You may either do the review yourself or direct the grantee to conduct the review. In this case, due to the small number of files, you would likely want to do the review yourself. The burden of work would not be significantly different than having the grantee do it, considering you would have to verify their compliance after the fact anyway, and your confidence in the results would be much higher. Finally, proceed to use the disallowance matrix.

2. You are on a monitoring visit to a program with 300 individuals in covered positions. You pull a sample of 25 files, including five staff and 20 volunteers, roughly equal to their actual distribution of covered positions. You find that all the volunteer files are compliant, but all the staff files are out of compliance in the same way.

First, inform the grantee and have them implement corrective action to get into compliance. You must also expand the scope. In this scenario, there is likely justification to limit the expansion of scope to staff

only. If you do that, be sure to document your reasoning. You would then either conduct that review yourself or ask the grantee to conduct the review and verify the results. In this case, directing the grantee seems more likely, as the number of files to be reviewed (roughly 60) is significant and the grantee has demonstrated some understanding of the requirements.

3. You are on a monitoring visit to a program that recruits 50 volunteers to serve each year during the summer (June 1 – August 31). Your visit, however, is in March, and the only currently serving covered positions are two staff members. You find that both their files are noncompliant.

First, inform the grantee and have them implement corrective action to get into compliance. In this scenario, you would also expand the scope beyond the standard. You have reasonable cause to believe that the grantee has systemic noncompliance and you can only verify that by expanding the scope beyond the two currently serving covered positions to include, for example, the volunteer files from last summer.

4. You are on a monitoring visit to a program with 100 individuals in covered positions, serving in groups of 20 at 5 different sites. You pull a sample of 25 files, including five from each site, and review them site by site (i.e., you review all the files from Site 1, then all the files from Site 2, etc.) You find that the first two files you review in Site 1 are out of compliance.

First, inform the grantee and have them implement corrective action to get into compliance. You already have enough information to initiate an expansion of scope covering all files from Site 1. Continue your review for Site 2. If you find more than two noncompliant files, again, you would initiate the expansion of scope in that site. Continue to Site 3, proceeding the same way. After determining what you think the appropriate expansion of scope is, determine whether you or the grantee will conduct the remaining reviews, using the criteria we've discussed above.

Exercise 4: Mitigation Ratings

Use the Mitigation Rating Worksheet to identify the appropriate mitigation rating for each of the following files. Assume all checks mentioned are cleared (i.e., the individual is not a convicted murder or sex offender) unless otherwise noted.

1. **J. Dewey**

This file contains a completed, cleared FBI fingerprint-based check, which was completed prior to the start of work on the grant. However, it contains nothing else. This individual has recurring access to vulnerable populations. As the check was completed before the individual began work, however, he or she did not actually encounter any vulnerable populations until after the FBI check had cleared.

*Mitigation Rating: **Substantial***

2. **F. Davis**

This file contains a vendor check. At first, it is not clear what that vendor check consists of. However, the grantee researches this question with the vendor and reports that it contains both a search of nationwide criminal history information and a national sex offender registry check. It did not include checks of any of the designated CNCS repositories. It was complete before the

start of service. The file also contains a completed search of the NSOPW, completed prior to the start of service. Although an FBI check was required, it was not completed. This individual has recurring access to vulnerable populations, and accompaniment was not documented or part of the program design.

*Mitigation Rating: **Moderate***

3. C. Santiago

This file contains a fingerprint-based FBI check, which was initiated before the start of service, but not completed until three weeks after the start of service. This file does not contain an NSOPW. Although state checks were required, none were present. This individual has recurring access to vulnerable populations and accompaniment was not documented.

*Mitigation Rating: **Low***

4. V. Hayes

This file is identical that of C. Santiago above. However, the program always has its volunteers work in classrooms where a school official is present. That was not documented, but it is indicated in their application and their policies and procedures.

*Mitigation Rating: **Moderate***

5. R. Cunningham

This file contains a completed, cleared FBI fingerprint-based check, which was initiated and completed after the start of work on the grant. However, it contains nothing else. This individual does not have access to vulnerable populations.

*Mitigation Rating: **Moderate***

6. T. Melendez

This file contains an NSOPW completed prior to the start of the individual's work on the grant. It also contains a vendor check. At first, it is not clear what that vendor check consists of. However, the grantee researches this question with the vendor and reports that it contains only a credit check. This individual does not have access to vulnerable populations.

*Mitigation Rating: **Low***

7. E. White

This file contains an NSOPW completed prior to the start of the individual's work on the grant. It also contains a check of the individual's State of Service, which was initiated prior to the individual's start date. There is no state of residence check. This individual does not have recurring access to vulnerable populations.

*Mitigation Rating: **Substantial***

8. Bonus Question

All of the above scenarios that include vendor checks are missing one piece of information to determine whether they are compliant or not. This piece of information is not needed to determine whether or not a vendor check can count as “mitigation.” What is it?

For vendor checks to be compliant, they must not be time-limited in any way. However, time-limited vendor checks can be taken into account for compliance purposes if they include a nationwide sex offender registry check or a nationwide search of state criminal history information.

Exercise 5: Calculating Disallowance

Calculate the appropriate disallowance for each of the following scenarios.

1. Service Today!

The scope of review included 200 files. 32 were noncompliant, including 15 with substantial mitigation and 17 with moderate mitigation. The federal share was \$300,000. This was not self-reported.

1. Determine the percentage of noncompliance within the scope of review. $32/200 = 0.16$. Consequently 16% of the scope of the review was out of compliance.
2. Determine the appropriate per-individual disallowance amount using the Disallowance Matrix. In this example, 15 files have substantial mitigation, resulting in a per-individual disallowance of \$250 per individual, using the disallowance amount associated with noncompliance below 50%. 17 files have moderate mitigation, resulting in a per-individual disallowance amount of \$500 per individual.
3. Calculate the total disallowance for each category of mitigation and combine them for the total raw disallowance.

$$\$250 * 15 \text{ files with Substantial Mitigation} = \$3,750$$

$$\$500 * 17 \text{ files with Moderate Mitigation} = \$8,500$$

$$\text{Total Raw Disallowance: } \$3,750 + \$8,500 = \$12,250$$

4. This case is not self-reported, so there should be no 50% deduction.
5. Compare the total raw disallowance (\$12,250) to 25% of the federal share, the disallowance cap. $.25 * \$300,000 = \$75,000$. The raw total disallowance is lower than the disallowance cap. **Therefore, the applicable disallowance is \$12,250.**

2. Innovation for the People

The scope of review included 50 files. All 50 of them were noncompliant, with 23 having low mitigation and 27 having moderate mitigation. The federal share was \$700,000. This was not self-reported.

1. Determine the percentage of the total scope of review that is out of compliance. In this example, 100% $((23+27)/50)$ of the scope of review is out of compliance.

- Determine the appropriate per-individual disallowance amount using the Disallowance Matrix. In this example, you would apply the higher amounts for both categories. The appropriate per-individual disallowance for files with low mitigation is \$1,500. The appropriate per-individual disallowance for files with moderate mitigation is \$1,000.
- Calculate the total disallowance for each category of mitigation and combine them for the total raw disallowance.

$$\$1,500 * 23 \text{ files with Substantial Mitigation} = \$34,500$$

$$\$1,000 * 27 \text{ files with Moderate Mitigation} = \$27,000$$

$$\text{Total Raw Disallowance: } \$17,250 + \$27,000 = \$61,500$$

- This case is not self-reported, so there should be no 50% deduction.
- Compare the total raw disallowance (\$61,500) to 25% of the federal share, the disallowance cap. $.25 * \$700,000 = \$175,000$. The raw total disallowance is lower than the disallowance cap. **Therefore, the applicable disallowance is \$61,500.**

3. Townsville Elderly Services

The scope of review included five files. Three were noncompliant, with moderate mitigation. The federal share was \$100,000. This was self-reported.

- Determine the percentage of the total scope of review that is out of compliance. $3/5 = 0.6$. 60% of the scope of the review was noncompliant.
- Determine the appropriate per-individual disallowance amount using the Disallowance Matrix. In this example, the moderate mitigation files fall above the 50% threshold. The appropriate per-individual disallowance is \$1,000.
- Calculate the total disallowance for each category of mitigation and combine them for the total raw disallowance.

$$\$1,000 * 3 \text{ files with Moderate Mitigation} = \$3,000$$

$$\text{Total Raw Disallowance: } \$3,000$$

- This case *is* self-reported. Reduce the disallowance by 50%. $\$3,000 * .5 = \$1,500$.
- Compare the reduced disallowance (\$1,500) to 25% of the federal share, the disallowance cap. $.25 * \$100,000 = \$25,000$. The reduced disallowance is lower than the disallowance cap. **Therefore, the applicable disallowance is \$1,500.**

4. Improving Our Community

The scope of review included 3,000 files. 300 of them were noncompliant, all with low mitigation. The federal share was \$400,000. This was self-reported.

- Determine the percentage of the total scope of that was out of compliance. $300/3,000 = 0.1$. 10% of the scope of the review was out of compliance.

2. Determine the appropriate per-individual disallowance amount using the Disallowance Matrix. In this example, the files fall below the 50% threshold and all have low mitigation. The appropriate per-individual disallowance is \$750.
3. Calculate the total disallowance for each category of mitigation and combine them for the total raw disallowance.

$$\$750 * 300 \text{ files with Low Mitigation} = \$225,000$$

$$\text{Total Raw Disallowance: } \$225,000$$

4. This case *is* self-reported. Reduce the disallowance by 50%. $\$225,000 * .5 = \$112,500$.
5. Compare the reduced disallowance (\$112,500) to 25% of the federal share, the disallowance cap. $.25 * \$400,000 = \$100,000$. The reduced disallowance is *higher* than the disallowance cap. **Therefore, the applicable disallowance is the disallowance cap, \$100,000.**