

National Service Criminal History Check Enforcement Guide

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Agenda and Outcomes

Agenda

- Enforcement Guide updates
- Enforcement Guide review
- Examples
- Tools and Templates

Outcomes:

- Understand the changes to the Enforcement Guide
- Understand your role in CHC Disallowance process
- Understand how to use the Disallowance Matrix
- Understand how to use Enforcement Guide tools and templates

Enforcement Guide Updates

Enforcement Guide Updates

Third Iteration:

1. Interim Disallowance Guide: 4/13/15
2. Updated on 8/20/15
3. Enforcement Guide: April 1, 2017

Language:

- Mitigation: action of reducing the severity of something
 - Mitigation=Grantee effort

- Recipient=Grantee
 - Mitigation=Recipient Effort

Interim Disallowance Guide was updated with a mitigation matrix with disallowance amounts and self-reporting pilot.

Enforcement Guide was updated to streamline the subrecipient payment of disallowance, streamline the matrix and formalize documentation requirements.

April 1: if there is an open monitoring and if the debt collection letter has not been issued via official notice before April 1-use the interim guide. If the debt collection letter will be issued post April 1-use the Enforcement guide.

Enforcement Guide Changes

Section 1: Ineligibility versus Noncompliance

Changes: Ineligibility documentation requirements have been standardized

No changes in Section 2

Section 3: Calculating Disallowance

Changes:

- * No more 50% of noncompliant individuals change: self-report vs. standard disallowance rates
- * Minor changes to what qualifies as mitigation for NSOPW, State Checks, Vendor Checks and additional information on murder self-certifications and ASP/Exemptions
- * Additions to disallowance calculations regarding: Failure to correct previously identified noncompliance and hours

Section 4: Self-Reporting

Changes:

- * Incentivize self-reporting
 - % of noncompliant individuals does not impact disallowance

Section 5: Monitoring and Payment Procedures and Documentation

Changes:

- * Documentation requirements standardized
- * Specific guidance on subrecipients and multiple grants

Appendix A: Participation in the 2014 Assessment Period is new.

Appendix C: IPERIA Recovery for NSCHC Findings: is new.

Three instances in which you will interact with the CNCS NSCHC Enforcement Guide:

- Ineligible to Serve Individual
 - Disallow all costs
 - Report to CHC@cns.gov
 - Ineligibility Documentation
- Self-Report NSCHC Noncompliance
 - Self-Report Disallowance Rate!
 - Self-Report Documentation
 - Use Mitigation Matrix
 - Disallowance Documentation
- Oversight/Monitoring Activity
 - Use Mitigation Matrix
 - Disallowance Documentation

Enforcement Guide Review

- Guide Section 2: Ineligibility vs Noncompliance
- Guide Section 3: Monitoring Officials Responsibilities to Assess and Remedy Noncompliance
- Guide Section 4: Calculating Disallowance
- Guide Section 5: Self Reporting
- Guide Section 6: Monitoring Documentation

Section 2: Ineligibility vs Noncompliance

Covered Individual: Person receives a living allowance, stipend, education award, salary, through a national service program and the Social Innovation Fund

Ineligible (to serve) individual:

- Registered or required to be on a sex offender registry
- Convicted of murder
- Refuses to consent to NSCHC
- Makes a false statement

Noncompliant individuals:

- Wrong type of checks
- Late checks
- No accompaniment
- No documentation

Section 2: Ineligibility vs Noncompliance

Identify Ineligible Individuals

1. Confirm Ineligibility
2. Remove from service
3. Must retain service and NSCHC documentation

1. Disallow ALL costs
 - Includes stipend, salary, fringe benefits or education award (including match funds)
2. Recipient must report to CHC@cns.gov
 - Report must be made by prime, sub-recipients
 - Cc' PO, GO
 - Subject: Ineligible Individual Notification
 - Specific Documentation Requirements (Section 6)

Section 6: Ineligible Individual Documentation

If the individual is ineligible to serve, you must document:

- the full name of the individual,
- the date they started on the grant,
- the date ineligibility was identified,
- the date they were removed from the grant,
- the number of hours charged to the grant,
- the assessment of checks conducted against which checks were required,
- the basis of ineligibility identified through the NSCHC (e.g. false statement, murder conviction, etc.), and
- the calculation of all associated grant costs from federal and match funds, as applicable.

Section 3: Monitoring Officials Responsibilities to Assess and Remedy Noncompliance

- Review Files
- Two or more cases of noncompliance
- Expand scope of review
- Establish eligibility
- Nonresponsive recipient or recipient failure to take corrective action
- Implement manual hold
- Calculate the disallowance

CNCS will Implement manual hold, monitoring officials among grantees will implement control measures consistent with your policies and state laws and regulation.

Image: Student in library

Section 4: Calculating Disallowance

Disallowance is based on:

- Self Reported vs. discovered during official monitoring visit
- Individuals
- Mitigation rating
 - High
 - Moderate
 - Low

- Access to vulnerable populations

Section 4: Calculating Disallowance

Applying the Matrix

Murder Self-Certification: No disallowance but corrective action required

ASP/Exemptions: If file is out of compliance with terms of ASP/Exemption, assess without regard to ASP/Exemption

Sex offender check: check is noncompliant but could mitigate noncompliance

Mitigated sex offender check:

- Incomplete NSOPW: e.g.: missing states
- Adjudicated FBI check (includes National Sex Offender Registry (NSOR))
- Vendor national sex offender registry check but not NSOPW
- Statewide sex offender check from state of service or residence (new)

Mitigated vendor check

- Time limited check
- Missing NSOPW but includes nationwide sex offender registry search
- Missing/Incomplete State check but includes:
 - A national search of state criminal information
 - Search of CNCS designated repository in either state of residence or service when both are required

Vendor check: If a recipient uses a vendor check, the recipient must demonstrate that the vendor's criminal history record search meets CNCS's requirements.

Mitigated accompaniment:

- Performed but not documented sufficiently and contemporaneously
- Not documented but accompaniment is a standard process (in policies, program model, etc.)

The NSOPW is a public registry of persons convicted of sex offenses (however, juvenile offenders and some offenders whose crimes are less severe do not appear on the NSOPW). The NSOR is a registry for use by law enforcement personnel; it lists all the offenders that have been submitted to the NSOR by the States and Territories

Section 4: Calculating Disallowance

No Access to Vulnerable Populations

TIME is the difference here between HIGH and MODERATE.

- Adjudicated and On-time Sex offender check
- Initiated:

- State check

OR

- FBI check

OR

- Vendor check

- Adjudicated Sex offender check

- Initiated late:

- State check

OR

- FBI check

OR

- Vendor check

Image: Copy of Enforcement Guide

Section 4: Calculating Disallowance

Access to Vulnerable Populations

Difference between High and Moderate is

sex offender check and accompaniment.

- Accompaniment performed
- Adjudicated and on time sex offender check
- Initiated on time:
 - State check

OR

- FBI check

OR

- Vendor Check

2 OPTIONS:

1. Accompaniment performed and one of the following initiated on time:

- Vendor state check

OR

- State check

OR

- FBI check

1. On time sex offender check and completed even if late

- Vendor state check

OR

- State check

OR

- FBI check

Moderate: Both sex offender and accompaniment

High: missing sex offender or no accompaniment

Image: Copy of Enforcement Guide

Section 4: Calculating Disallowance

Other Factors

- Disallowance Cap: 25% cap of CNCS Federal Share, Monitoring Official has discretion to override cap
- Failure to Correct Previously Identified Noncompliance: Disallowance a 2nd time + possibility of other enforcement remedies

*Do not disallow hours! Eligible individuals still receive credit for their hours despite enforcement of disallowance on noncompliant recipient.

Image: National Service Criminal History Check Mitigation Matrix

Examples

Example 1

Self Reported = Self Reported Rate!

Access to vulnerable populations = 3 checks needed + documented accompaniment

NSOPW late but cleared = NSOPW is noncompliant. Late "sex offender check."

State Check Initiated on time and cleared 2 weeks after start of service/work = Compliant!

FBI Check initiated on time and adjudicated 2 weeks after start of service/work = Compliant! Late "sex offender check" (adjudicated after start of service/work).

No documented accompaniment = Noncompliant. Accompaniment is not Standard Process

Low Mitigation Rating

=

\$750 Disallowance*

*Standard Disallowance=\$1,500

- No mitigated accompaniment
- No sex offender check adjudicated before start of service/work

Remember:

- Corrective Action!
- 2 or more cases -> expand scope

Example 2

Identified on Monitoring Visit = Standard Disallowance

No access to vulnerable populations = 2 checks needed: NSOPW and State or FBI

NSOPW cleared before the start of service/work = Compliant!

FBI Check initiated 1 day after start of service/work and cleared 2 weeks after start of service/work = Noncompliant

High Mitigation Rating = \$500 Disallowance*

*Self Reported Disallowance = \$250

- On-time and cleared NSOPW
- Late FBI check

Remember:

- Corrective Action!
- 2 or more cases -> expand scope

Example 3

Identified on Monitoring Visit = Standard Disallowance

No access to vulnerable populations = 2 checks needed: NSOPW and State or FBI

NSOPW completed and cleared 1 day after start of service/work = Noncompliant

Vendor State Check initiated 1 day after start of service/work, cleared 1 week later = State check source is not state repository but includes nationwide search of state criminal information = Noncompliant

Fieldprint FBI check initiated 1 day after start of service/work, cleared 2 days later = Noncompliant

Moderate Mitigation Rating = \$1,000 Disallowance*

*Self Reported Disallowance=\$500

- Late NSOPW
- Late FBI check
- Late mitigated State Check

Remember:

- Corrective Action!
- 2 or more cases -> expand scope

Example 4

Self Reported = Standard Disallowance

No access to vulnerable populations = 2 checks needed: NSOPW and State or FBI

NSOPW is on time and cleared = Compliant!

FBI check initiated on first day of service/work, results 2 days later = grand theft auto arrest, possession conviction, murder conviction = Ineligible

Disallow all costs!

- Report to CHC@cns.gov
- CC' PO and GO
- Provide Ineligible Documentation

Recipients may establish additional screening procedures and criteria. CNCS is required by statute but does not limit additional screen procedures to protect beneficiary populations. These are minimum requirements and programs should have additional screening criteria and procedures to determine suitability of placements. Consider your program model-if service include driving cars, consider having

Section 6: Payment Request Process

- CNCS issues a *Debt Notification Letter* to prime recipient regardless of whether the noncompliance was at the prime or subrecipient level
 - Rights of Recipients
 - Options Available to pay disallowance to CNCS
 - Payment in Full
 - Alternative Payment options
- Note to Prime Grant Recipients:

- Disallowance for NSCHC Compliance at the subrecipient level must be paid back to CNCS.
- Prime recipient cannot reallocate NSCHC disallowance.
- Prime recipients is responsible for overseeing subrecipient's application of guide and submit documentation of monitoring findings to CNCS along with the total disallowance calculated.
- CNCS will disallow costs from the prime recipient if subrecipients are noncompliant and the prime recipients has not correctly applied enforcement and/or has failed to identify noncompliance prior to CNCS's monitoring of the prime recipient.

Section 5: Self Reporting

Document, Expand Review, Corrective Action, Calculate Disallowance

Recipient reports own noncompliance before it receives written notice of a future oversight or monitoring activity

- Self-reporting is intended to incentivize identification of the noncompliance by the recipient
- A prime recipient reporting to CNCS that it discovered noncompliance at its subrecipients is not considered self-reporting.

Immediately document that the recipient has self-reported noncompliance:

- Date of notification
- Date the recipient discovered their noncompliance
- Nature of the noncompliance
- Scope of the noncompliance, to the extent it's known
- How the recipient identified the noncompliance
- What corrective actions the recipient took, if any

Section 6: Disallowance Documentation

1. For each individual file with NSCHC noncompliance, monitoring officials must:
 - a) contemporaneously document a written assessment of the deficiency,
 - b) assign and document the appropriate mitigation ratings, and
 - c) assess an associated disallowance amount.

A documented written assessment of the deficiency must include:

- date of notification of monitoring, date of monitoring or date of self-review, whichever is earlier,
- the name of the individual,
- start date of work/service on the grant,

- level of access to vulnerable populations,
- when checks (NSOPW, State of residence, State of service, FBI) were initiated,
- what other checks/conditions were present and relied on in determining the assigned mitigation rating (e.g., vendor checks),
- when results were adjudicated,
- whether accompaniment was performed,
- when accompaniment ceased, and
- which checks were missing, incomplete or late.

2. Payment Request process: CNCS will issue Debt Notification letter.

Tools and Templates

Outcomes

- Understand the changes to the Enforcement Guide
 - Major changes:
 - Self reporting is part of Mitigation Matrix (no longer need to calculate 50% of noncompliant files)
 - New documentation requirements
- Understand your role in CHC Disallowance process
 - CHC Compliance remains the same
 - Increased documentation requirements
- Understand how to use the Disallowance Matrix
 - Specific conditions mitigate noncompliant checks
 - No access to vulnerable populations: Time is the difference between High and Moderate mitigation ratings
 - Access to vulnerable populations: On-time sex offender check and accompaniment is the difference between High and Moderate mitigation ratings

Q&A

What questions do you have?

Wrap Up for Today

- ✓ The call replay will be available until May 25, and the replay number is 866-499-4577.
- ✓ Today's slides and audio recording will be posted on the National Service Knowledge Network:

www.nationalservice.gov/resources/americorps

Thank you for participating in today's webinar!