



SAFE ENVIRONMENT PROGRAM

ARCHDIOCESE OF NEW YORK

ARCHDIOCESAN POLICY ON BACKGROUND CHECKS FOR EMPLOYEES & VOLUNTEERS

RATIONALE:

The parishes and programs of the Archdiocese of New York are fully committed to providing the children and youth they serve with an environment that provides excellence in religious and spiritual formation and sensitivity in pastoral care while keeping them safe from those who might harm them. Archdiocesan policy requires a background check for any person who has regular contact with children and/or young people. Failure to allow a background check means that you will not be able to work with children and/or young people.

MATERIALS:

Along with this policy you should have received other documents: a “Summary of Your Rights Under the Fair Credit Reporting Act”, an “Authorization & Disclosure for Background Check”, and (if you are a prospective employee) a copy of Chapter 23-A of the New York State Corrections Law.

Since the Archdiocese intends to conduct criminal background checks, its policy comes under the jurisdiction of the federal *Fair Credit Reporting Act*. Please read the “Summary of Your Rights Under the Fair Credit Reporting Act” document carefully before doing anything else. This law includes various features that protect you in this process.

Don't be concerned about the word “credit”. **We do not ask for any financial information about you.** The scope of any background check is limited to the following items:

1. Verification of Social Security Number
2. National Criminal File Search
3. State Sexual Offender Search

If you have any questions about the “Summary of Your Rights Under the Fair Credit Reporting Act” document, please contact the Archdiocesan Safe Environment Program (safe@archny.org, 212-371-1011, x 2810).

The “Authorization & Disclosure” form must be completed in its entirety and returned to the responsible administrator of the institution or program in which you will be working.

PROCEDURE FOR BACKGROUND CHECKS:

The Archdiocese has arranged for a company called “**LexisNexis Screening Solutions Inc.**” to perform the checks. Persons being considered for employment, employees, and volunteers are not charged for this service. The background check is conducted during the application/screening process, before a person is permitted to have contact with children. Employment in any position that has

contact with children is conditioned on passing the background check. The “Authorization & Disclosure” form also grants the Archdiocese permission to periodically conduct a new background check at any time during the tenure of a person's employment or service. The Archdiocese will only conduct a new background check after the passage of an extended period of time from the initial check, or if information is received regarding an incident or a criminal complaint.

Once a background check is completed, **LexisNexis** sends the results to the Director of the Safe Environment Program.

- If the information falls within the mandate of the *Bishops' Charter* (i.e., it relates to the sexual abuse or minors), the Director of the Safe Environment Program will notify the Archbishop, the Vicar General, the Office of Legal Affairs and the administrator of the program where you work or volunteer. *At the same time LexisNexis makes the same information available to you.*
- If the information does not fall under the *Bishops' Charter*, the Director of the Safe Environment Program will evaluate the information to determine if it suggests a risk to minors. This analysis will be made in a way that is consistent with Federal and New York State law. The responsible administrator of your institution or program is not necessarily informed of any negative information. They will only be informed of serious negative information that may affect your ability to work with children and/or young people.
- Any information that you provide to the Safe Environment Office, the responsible administrator of your program or institution, or **LexisNexis** explaining the negative information will be a part of any assessment that is made.
- All matters will be handled with the utmost discretion and professionalism.

Note: Clergy who are coming to the United States from a foreign nation will also be required to submit to a criminal background check from their home country. The Archdiocese will utilize outside companies to conduct these checks, and the results will be handled as outlined above.

QUESTIONS:

Should you have any questions concerning background checks, please contact the Safe Environment Program office:

- E-mail: safe@archny.org
- Telephone: (212) 371-1011, extension 2810.
- Mail: 1011 First Avenue (7th Floor) New York, New York 10022



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SOME FACTS ABOUT BACKGROUND CHECKS

Who's going to see the results of my report?

According to the *Archdiocesan Policy on Background Checks for Parish Employees & Volunteers*, only the Director of the Archdiocesan Safe Environment Program will be able to access reports on parish employees and volunteers. If necessary, the Director will review any result with the Archdiocesan Office of Legal Affairs. The Director of the Safe Environment Program will only contact the responsible administrator of your institution or program only if the information has a bearing on your fitness to serve children as an employee or volunteer.

How can I obtain a copy of the report that was run on me?

If you are interested in receiving a copy of your background report, you may send your request in writing to: LexisNexis Consumer Disclosure, P.O. Box 105108, Atlanta, GA 30348, You must include your Social Security Number the Archdiocesan account number (VSP622540). You can also call LexisNexis's customer service number, 1-800-845-6004, for more information about your report.

What will show up if I decide to access my own credit report?

It will note that the Archdiocese or LexisNexis has “obtained a copy” of your credit report. **This does not mean that anyone obtained financial information about you.** It simply means that the part of your report containing name, Social Security Number, and address was checked to make sure that your name (or a nickname or a previous name) and address matches the Social Security Number you gave on the Authorization & Disclosure form, along with residential addresses associated with that name(s) and Social Security Number. **We do not ask for or receive any financial information about you, under any circumstances.**

How often will a background check be done?

An initial background check is required during the application/screening process, prior to a person beginning service that involves contact with children. The Authorization form also permits the Archdiocese to conduct a further background check during a person's time of service; this will permit us to refresh background checks on staff members (e.g. after an extended time period has passed since the last check, or if information is received regarding an incident or a criminal conviction). In addition, if a current employee or volunteer applies for a position at a new institution (e.g., a new parish or school), he or she must complete a new Authorization form, and we will conduct a new background check.

What does the “release” on the Authorization & Disclosure form mean?

The release on the Authorization & Disclosure form is a *limited* release. Federal law spells out the circumstances under which no consumer may bring certain actions in connection with a background check. Consistent with these circumstances, the release is limited by the language at the beginning of the sentence, “to the extent permitted by law,” to those actions barred by the statute. **You are not being asked to give up any rights under applicable law.**

Where will my records be kept?

LexisNexis stores all background check results in a confidential and secure archive. Original signed Authorization & Disclosure forms will be kept in a confidential personnel file at the institution where you work. A copy of your form will be kept in a secure file and the information retained in a secure database at the Archdiocesan Safe Environment Office.

Why do you need my Social Security Number, and how will it be used?

Without a Social Security Number, LexisNexis has no way of differentiating your records from other people who have the same name and date of birth. Since LexisNexis checks criminal records nationally, you would be surprised at how many potential records can turn up for one name with the same date of birth.

The Social Security Number allows us to verify that you are who you say you are. Also, it allows us to confirm that you are the only person using your Social Security Number. If your number appears with anyone else's name, LexisNexis will receive a record to that effect that they share with the Safe Environment Program.

How is my Social Security Number protected?

Your parish and the Safe Environment Program office exercise great care regarding your Social Security Number.

First, access to Authorization & Disclosure Forms is strictly limited to those who do the checks.

Second, institutions are required to maintain Authorization & Disclosure Forms in secure confidential files.

Third, the Safe Environment Program maintains its copy of the Authorization & Disclosure Forms in secure confidential files and in a secure database.

Fourth, LexisNexis employs up to 128-bit encryption technology to protect individuals from the unauthorized use of the information sent to their server. Moreover, they follow industry standards by utilizing secure socket layers (SSL) and then encrypt the information before sending it across the Internet. This provides a secure transmission from the Safe Environment Program office to the LexisNexis servers

What if I don't have a Social Security Number?

If you do not have a valid Social Security Number (e.g., you are present in the United States on a visa that does not give permission to be employed, or you are a person in "undocumented" status), your supervisor (pastor, director of religious education, etc.) will verify your identity with some form of photo identification (e.g., a driver's license, a passport, an employer-issued ID card, etc.). You should still complete the background check authorization form, including your name, date of birth, and address, but you should leave the line for Social Security number blank. This will still enable us to do a name verification and criminal record check.

What if I have other questions not addressed here?

Before signing and submitting your Authorization & Disclosure for Background Check form, feel free to contact the Safe Environment Program office (by e-mail: safe@archny.org or by telephone: 212-371-1011, x 2810).



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A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. §§1681-1681u (www.ftc.gov/os/statutes/fcra.htm.) The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.
- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.
- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.
- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified.** If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.
- **You can dispute inaccurate items with the source of the information.** If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.
- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

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- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.
- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.
- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING	PLEASE CONTACT
CRAs, creditors and others not listed below	Federal Trade Commission Consumer Response Center- FCRA Washington, DC 20580 * 202-326-3761
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 * 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 * 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington D.C. 20552* 800- 842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 * 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 * 800-934-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 * 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator-GIPSA Washington, DC 20250 * 202-720-7051

NEW YORK STATE CORRECTIONS LAW
ARTICLE 23-A
LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY
CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

Section 750. Definitions.

751. Applicability.

752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

753. Factors to be considered concerning a previous criminal conviction; presumption.

754. Written statement upon denial of license or employment.

755. Enforcement.

§ 750. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§ 751. Applicability.

The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§ 752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

- (1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
- (2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§ 753. Factors to be considered concerning a previous criminal conviction; presumption.

1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§ 754. Written statement upon denial of license or employment.

At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§ 755. Enforcement.

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.
2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.