

Training 6-12

Criminal Background Checks



Welcome to the Wisconsin Department of Public Instruction's training module on the Special Needs Scholarship Program, or SNSP, and Private School Choice Programs. We will refer to the Private School Choice Programs as "Choice" or "Choice program" throughout this training.

The SNSP is governed by Wis. Stat. § 115.7915 and the Wis. Admin. Code ch. PI. 49. The Choice program is governed by Wis. Stat. §§ 119.23 and 118.60, as well as Wis. Admin. Codes ch. PI 35 and 48. This training is based on the requirements in these statutes and rules. Provisions of this training module are subject to statutory and rule changes.

This training module will provide information on the criminal background check requirement for the SNSP and Choice program.

Agenda

- Determining the Individuals Required to Have a Background Check
- Requirements to Pass the Background Check
- Conducting the Background Check
- Knowledge Checks

2

The training will begin by explaining how a school should determine which individuals require a background check. We will then discuss the requirements for an individual to pass the background check. Next, we will explain the two options for conducting the background check. This will include a discussion of resources that are available for background checks and how often the background checks must be completed. Finally, we will do some knowledge check questions.

Determining the Individuals Required to Have a Background Check



In this first section, we will explain how a school should determine which individuals require a background check.

Individuals Requiring a Background Check

- In order to determine which individuals require a background check, the school should begin by generating a list of all individuals who perform services for their legal entity.
- SNSP and Choice program schools must conduct a criminal background check for any individual at the school's legal entity who meets both of the following:
 - The individual is an employee of the legal entity under Wis. Stat. § 108.02 (12); and
 - The individual is directly or indirectly related to the school's educational programming.

4

SNSP and Choice program schools must conduct a criminal background check for any individual at the school's legal entity who is defined as an employee under Wis. Stat. § 108.02 (12) **and** who is directly or indirectly related to the school's educational programming. In order to determine which individuals require a background check, the school should begin by generating a list of all individuals who perform services for their legal entity.

Organizations are the same legal entity if they have the same federal tax id number and use it for all purposes, including payroll. Generally, if a school is part of a church, the church and school are the same legal entity. If the school is unsure whether the church is part of the same legal entity, they should determine if the church and school use the same federal tax id number for payroll. If they use the same federal tax id number, the organizations are the same legal entity. The organization would then be required to complete background checks for the individuals that work for the church if they are directly or indirectly related to educational programming.

Additional Required Background Checks

- Drivers of alternative vehicles have separate requirements for background checks, so they must have background checks even if they are not employees of the school.
- School bus drivers must meet the Department of Transportation background check requirements.

5

Drivers of alternative vehicles have separate requirements for background checks, so they must have background checks even if they are not employees of the school. The items that would result in an individual not being able to drive an alternative vehicle are different than the background check requirements we are discussing in this training. See Training 6-8 available at <https://dpi.wi.gov/parental-education-options/choice-programs/on-demand-training> for information on the required background checks for drivers of alternative vehicles.

Additionally, school bus drivers must meet the Department of Transportation background check requirements for obtaining and maintaining their bus driver license.

Who is an employee?

- The determination of who is an employee of the legal entity is based on Wis. Stat. § 108.02 (12).
- Individuals who perform services for a school may be considered employees regardless of whether the individuals are paid directly by the school.
- Since volunteers do not receive any compensation for the services they perform, they are not considered employees and background checks are not required.

6

The determination of who is an employee of the legal entity is based on Wis. Stat. § 108.02 (12). Schools are responsible for classifying their workers based on this statute.

Individuals who perform services for a school may be considered employees regardless of whether the individuals are paid directly by the school. However, if the individual is not paid by the school or another organization for performing the services, a background check is not required. If an individual from another company is determined to be an employee that requires a background check, the school should determine if the 3rd party company has already completed a background check. If so, the school can obtain the background check from that entity and use it to help meet the Choice/SNSP background check requirements. Please note that the school must obtain the background check information from the 3rd party and review it to ensure the employee meets the requirements. A letter or other document from the 3rd party that indicates the individual passed the background check would not be sufficient to meet program requirements.

Since volunteers do not receive any compensation for the services they perform, they are not considered employees and background checks are not required.

DWD Worker Classification Resource

- DWD has a worker classification resource available at <https://dwd.wisconsin.gov/worker-classification/ui/> that can be used to determine who is an employee.



7

The Wisconsin Department of Workforce Development (DWD) has worker classification resources available online. Schools may use these resources to help them determine who is a school employee based on Wis. Stat. § 108.02 (12).

The link for the DWD worker classification resource is included on this screen. On this webpage, the school will need to click on what type of employer they are. Generally, schools in the Choice program and SNSP would select the “Nonprofit Employers” icon. This will take the school to resources that can help the school determine whether an individual is an employee.

DWD Worker Classification Resource (cont)

- Part 1: Direction and Control - The worker must be free of the employer's direction and control to be considered an independent contractor.
 - If the worker is found to be under the direction and control of the employer, the worker is an employee.
 - If the worker is free from the direction and control of the employer, the second part of the test is applied to the worker.
- Part 2: Independent Business - Five Factors

Information from DWD worker classification resource

8

The DWD worker classification resource has a two part test for who is considered to be an employee. The first part is determining whether or not the school has direction and control over the worker. If the school is directing the work of the individual and requiring that it be done in a certain way, the individual is generally considered to be an employee of the school. For example, a school gets its substitute teachers from a staffing agency. The school requires that the substitute teacher provide certain curriculum and follow the private school board's policies and procedures. Since the school is directing and controlling what the teacher does at the school and is requiring that the individual follow the board's policies and procedures, the teacher is considered to be an employee of the school.

If the school is not directing and controlling the employee, then the school must determine whether or not the individual has an independent business. The DWD worker classification resources website includes information on how this determination is made. We will go through the 5 factors to consider on the next slide.

DWD Worker Classification Resource (cont)

- Part 2: Independent Business - Five Factors
 - Services relate to other school/entity activities
 - Advertising or holding out
 - Entrepreneurial risk
 - Perform similar services for others
 - Proprietary interest

Information from DWD worker classification resource

9

The school must consider five factors in determining whether or not an individual has an independent business. One of these factors alone indicating that the individual does not have an independent business can be sufficient for the school to determine that the individual is an employee.

- The first factor is whether the services being provided directly relate to the school's activities. For example, if the service being provided is teaching, the activity is directly related to the school's activity and the individual would generally be considered an employee. On the other hand, if the service is constructing a new building for the school, it would not be directly related to the school's activities and the individual may be considered part of an independent business.
- Next, consider if the individual advertises (or makes available) their services to individuals or companies other than the school.
- The third is whether the individual has a financial risk related to the business. This is based on whether the individual has the potential to make or lose money, depending on how the business performs.
- The fourth is if the individual also performs similar services to others. If the individual only provides those services for the school, than the individual would likely be considered an employee. If the individual performs the services for other organizations, they may be part of an independent business.

- The final consideration is whether the individual owns tools, equipment, or machinery for the business and would have the ability to sell or give away part of the business. If they are able to give away parts of their business, this is an indicator that they are an independent business. If the individual is using tools, equipment, and machinery owned by the school and would not be able to sell the items, this would be an indicator that the individual is an employee.

Please see the DWD worker classification resource for additional information on how these factors are applied.

Who is directly or indirectly related to educational programming?

- Individuals are considered directly or indirectly related to educational programming if they met any one of the following:
 - The individual has any compensation included as an eligible education expense in the Choice or SNSP financial audit.
 - The individual interacts with students.
 - The individual's job relates to the financial, administrative, or academic sectors of the school.

10

As we explained earlier, a school must conduct a criminal background check for any individual at the school's legal entity who is defined as an employee under Wis. Stat. § 108.02 (12) **and** who is directly or indirectly related to the school's educational programming.

An individual is considered directly or indirectly related to educational programming if they meet any one of three criteria. An individual is related to educational programming if:

1. any portion of an individual's compensation is included as an eligible education expense in the Choice or SNSP financial audit
2. the individual interacts with students
3. the individual's job is related to the financial, administrative, or academic sectors of the school. For example, this may include bookkeepers and academic coordinators.

Requirements to Pass the Background Check



Next, we will go through what the requirements are for an individual to pass the background check.

Criminal Background Check Requirements

SNSP and Choice program schools cannot employ:

- Any individual who is not eligible for a teaching license as the result of an offense; and
- Any individual who might reasonably be believed to pose a threat to the safety of others, which includes individuals who have engaged in immoral conduct.

12

Wisconsin law prohibits SNSP and Choice program schools from employing:

- Any individual who is not eligible for a teaching license as the result of an offense; and
- Any individual who might reasonably be believed to pose a threat to the safety of others, which includes individuals who have engaged in immoral conduct.

Teaching License Eligibility

An individual is ineligible for a teaching license if the individual has been convicted of any Class A, B, C, D, E, F, G, or H felony under Wis. Stat. chs. 940 or 948, except §§ 940.08 and 940.205, within six (6) years of the individual applying for a license to teach.

13

An individual is ineligible for a teaching license if the individual has been convicted of any Class A, B, C, D, E, F, G, or H felony under Wis. Stat. chs. 940 or 948, except §§ 940.08 and 940.205, within six (6) years of the individual applying for a license to teach.

The background check must be sufficient to determine whether the individual has had any of these felonies. If the individual was convicted of these felonies more than 6 years ago, the school needs to evaluate if the felony would be considered immoral conduct since that is an additional requirement that must be met by the background check.

Immoral Conduct

- Wisconsin law defines immoral conduct as “conduct or behavior that is contrary to commonly accepted moral or ethical standards and that endangers the health, safety, welfare or education of any pupil.”
- Immoral conduct includes, but is not limited to, the intentional use of an educational agency’s equipment to download, view, solicit, seek, display or distribute pornographic material.
- Schools should have a policy or other written document indicating what they consider to be immoral conduct.

14

If an individual has engaged in immoral conduct, they will not meet the background check requirements. Wisconsin statute specifically identifies that immoral conduct includes the intentional use of an educational agency’s equipment to download, view, solicit, seek, display or distribute pornographic material. When determining whether other conduct is immoral conduct, the school must first determine if the conduct is contrary to commonly accepted moral or ethical standards. If it is contrary to commonly accepted moral or ethical standards, the school must then determine if it endangers the health, safety, welfare, or education of any pupil.

For example, drunk driving is something that is contrary to commonly accepted moral or ethical standards. If someone was drunk driving on a deserted country road late at night, it could be determined that it does not endanger the health, safety, welfare, or education of any pupil so it would not be considered immoral conduct. However, if the individual was drunk driving in a school zone, that could endanger the health, safety, and welfare of a pupil so that would likely be considered immoral conduct. As a reminder, if an individual has been convicted of any felony in the last 6 years, even if it does not endanger the health, safety, welfare, or education of any pupil, the individual would not meet the background check requirements.

Schools should have a policy or other written document indicating what they consider

to be immoral conduct. This can be used when conduct arises that needs to be evaluated to determine if it is immoral.

Conducting the Background Check



Finally, we will review how a background check that meets the Choice program requirements can be conducted, the documents the school must retain for background checks, and how the background checks will be audited.

Background Check Options

- Schools have 2 options for completing the background check for employees who are directly or indirectly related to educational programming:
 - DPI Issued License Background Check Option
 - Non DPI Issued License Background Check Option

16

Schools have two options for completing background checks. Schools must use one of these options for each employee at the school who is directly or indirectly related to educational programming. The school can either use the DPI issued license background check option or the non DPI issued license background check option. The school does not need to use the same option for all employees at the school, it could chose to use the DPI issued license option for some employees and the non DPI issued license option for other employees.

Current DPI Issued License Background Check Option

- The background check requirement can be met by determining that an individual has a current, DPI issued license.
- To complete the background check using this option the school must complete all of the following for the individual:
 - Obtain and retain a copy of the DPI issued license.
 - Annually determine that the individual has a current DPI issued license in advance of the employee working for the school term. If the individual no longer has a license, the school must use an alternative source to determine that the employee meets the requirements and maintain the documentation showing the background check completed.

17

In order to use the DPI issued license option, the employee must have a current DPI issued license. The school must obtain a copy of the DPI issued license and maintain it in the school's files. The school must then annually determine that the license is current by reviewing the DPI license website at <https://elo.wieducatorlicensing.org/datamart/publicSearchMenu.do> prior to the employee working for the school term. The school term is the time commencing with the first school day and ending with the last school day, other than summer school.

Please note any current DPI issued license is sufficient to meet the background check requirement. As a reminder, however, administrators and teachers who use the DPI issued license option to meet the Choice educational credential requirement must have a certain type of license to meet that requirement. Please see Training 6-9 Employee Education Requirements at <https://dpi.wi.gov/parental-education-options/choice-programs/on-demand-training> for additional information on the type of license required for the educational credential requirement.

If, as part of the annual review, the school determines the employee no longer has a current DPI issued license, the school must use the non DPI issued license option explained on the next slides to complete the background check. This background check must be completed prior to the individual working at the school for that school

year.

Non DPI Issued License Background Check Option

- The background check must be completed prior to employing any individual who meets the specified criteria and every five (5) years thereafter.
- If the school is new to the Choice program/SNSP and has not previously completed background checks on existing employees, the school must complete a background check on each employee before he or she works at the school for the school year.

18

If the school uses the non DPI issued license option, the school must complete a separate criminal background check prior to employing any individual at the school and every five (5) years thereafter.

Schools that are new to the SNSP and/or Choice program must conduct background checks on all employees prior to the start of the first day of school that the school participates in the SNSP or Choice program.

Non DPI Issued License Background Check Option (cont)

- The background check process must include a review of:
 - Prior criminal behavior; and
 - Any behavior that may be considered “immoral conduct” or that might reasonably be believed to pose a threat to the safety of others, regardless of whether it was illegal.
- Resources for completing background checks are available on DPI’s Background Check Information Sources webpage at <https://dpi.wi.gov/tepd/licensing/background/sources>.

19

The background check process must include a review of prior criminal behavior as well as any behavior that may be considered “immoral conduct” or that might reasonably be believed to pose a threat to the safety of others, regardless of whether it was illegal.

The determination of whether an employee had immoral conduct can be completed in conjunction with the general background check process. The school may want to consider using a questionnaire to determine if there is any other conduct that could be considered immoral conduct. The DPI has a form online called the Conduct and Competency Form that schools may choose to use. This form is completed by the employee and can be used to determine if the individual engaged in any immoral conduct. Resources that may be used to conduct background checks, including this form, can be found on DPI’s Background Check Information Sources website at <https://dpi.wi.gov/licensing/background-check>.

A school performing an initial background check required for an employee that has worked or lived outside of Wisconsin must ensure the background check will identify any issues outside of Wisconsin that would disqualify the employee under the requirements of the programs. After this initial background check, if the employee has not resided outside the State of Wisconsin within the intervening time between

background checks, then utilizing the Wisconsin background check resources should be sufficient (unless they permanently reside outside of the state).

Non DPI Issued License Background Check Option (cont)

- If the background check reveals potential areas of concern, the school should review the relevant information to determine whether the behavior prohibits the individual from being employed at the school.

20

If the background check reveals potential areas of concern, the school should review the relevant information to determine whether the behavior prohibits the individual from being employed at the school. If the individual was convicted of any Class A, B, C, D, E, F, G, or H felony under Wis. Stat. chs. 940 or 948, except §§ 940.08 and 940.205, within the last six (6) years, the individual would not meet the background check requirement. If the background check determines that the individual engaged in conduct that could be considered to be immoral conduct, the school must review the situation to determine whether it is immoral conduct as previously described in this training.

Record Retention

- The records and documents obtained from performing criminal background checks must be retained and accessible to the school and available to the school's independent auditor.
- A summary document that only indicates whether the individual passed or failed the background check is not sufficient documentation of the background check.

21

The records and documents obtained from performing criminal background checks must be retained and accessible to the school and available to the school's independent auditor. The school must provide the auditor with the full background check results. A summary document that only states whether or not each individual passed or failed the background check would not be sufficient.

The school's independent auditor will verify that the background checks have been completed as part of the school's audits.

Auditor Review

- The school's auditor will verify that the background checks have been completed as follows:
 - The Choice program schools are reviewed as part of the Fiscal & Internal Control Practices Report.
 - The SNSP schools are reviewed as part of the Enrollment Audits.
- Schools should provide their auditor with a policy or other document explaining what they determined to be immoral conduct.
- The auditor must complete a review of each background check and determine that the background check was completed as required.

22

The background checks for Choice schools will be reviewed as part of the Fiscal and Internal Control Practices Report. The background checks are reviewed for SNSP purposes as part of the Enrollment Audits.

The auditor will do the following:

1. Determine that the school identified all of the individuals that required background checks.
2. Ensure that the employees at the school passed the background check based on the SNSP/Choice program requirements.
3. To complete this review, request a policy or other document explaining what the school determined was immoral conduct. The school is not required to have this document in advance of the audit procedures; but schools may find it helpful to have this document when they complete the background checks.

Knowledge Checks



We will now complete some knowledge check questions.

Knowledge Check 1

- Review the next 3 slides and determine if, based on facts provided, it appears a background check is required.
- Please note the determination of whether or not an individual is an employee and directly or indirectly related to educational programming will vary based on the specific facts and circumstances of each school. This information is provided to assist in that determination.

24

The next three slides include different individuals and companies that are providing services for a school. Review the slides to determine if, based on the facts provided, a background check would be required.

Please note the determination of whether or not an individual is an employee and directly or indirectly related to educational programming will vary based on the specific facts and circumstances of each school. This information is provided to assist in that determination.

Knowledge Check 1 A

- Determine if the school is required to complete a background check for the individuals at each of the following companies:

Individual/Company Description	Background Check Required?
Substitute teachers from a third party service agency.	
The school contracts with a security agency. The school requires that the security agency provide reasonable security measures to keep the school safe but does not require particular security measures.	

25

Review the slide to determine if, based on facts provided, a background check would be required. Then go to the next slide for the answers and information on why a background check may or may not be required.

Please note the determination of whether or not an individual is an employee and directly or indirectly related to educational programming will vary based on the specific facts and circumstances of each school. This information is provided to assist in that determination.

Knowledge Check 1 A-Answers

- Determine if the school is required to complete a background check for the individuals at each of the following companies:

Individual/Company Description	Background Check Required?
Substitute teachers from a third party service agency.	Yes
The school contracts with a security agency. The school requires that the security agency provide reasonable security measures to keep the school safe but does not require particular security measures.	No

26

The school should complete background checks for all substitute teachers. This is because substitute teachers are under the direction and control of the school when they are at the school. They are required to teach the materials that the school indicates and are subject to the private school's policies and procedures. As we previously discussed, schools that are using a third party company can first determine whether or not that company has already completed a background check. If so, the school can obtain that background check to help meet the Choice program/SNSP background check requirement. Additionally, schools can considering using the current DPI issued license option for substitute teachers.

In the case of this security agency, the school is contracting for general security from the agency and not requiring any specific type of security or requiring that any specific individual complete the security. As a result, a background check would not be required in this situation. If the contract required specific people or specific job duties or tasks, a background check could be required. In these types of situations the DWD resource should be used to determine whether they are an employee.

Knowledge Check 1B

- Determine if the school is required to complete a background check for the individuals at each of the following companies:

Individual/Company Description	Background Check Required?
The school contracts for all of its administrators, teachers, and teacher aides from a separate entity. The board of the school determines each staff person's job responsibilities and what the teachers and teacher aides are required to provide for a curriculum.	
The school contracts with a company for transportation. The school provides the list of students that need to ride the bus. The transportation company develops the bus routes, hires the drivers, owns the vehicles, and performs all of the maintenance on the vehicles. The transportation company and the school have the same FEIN.	
The school contracts with a 3 rd party lunch provider. The contract requires that the lunch provider provide nutritional meals on school days that meet the USDA food program requirements.	

27

Review the slide to determine if, based on facts provided, a background check would be required. Then go to the next slide for the answers and information on why a background check may or may not be required.

Please note the determination of whether or not an individual is an employee and directly or indirectly related to educational programming will vary based on the specific facts and circumstances of each school. This information is provided to assist in that determination.

Knowledge Check 1B-Answers

- Determine if the school is required to complete a background check for the individuals at each of the following companies:

Individual/Company Description	Background Check Required?
The school contracts for all of its administrators, teachers, and teacher aides from a separate entity. The board of the school determines each staff person's job responsibilities and what the teachers and teacher aides are required to provide for a curriculum.	Yes
The school contracts with a company for transportation. The school provides the list of students that need to ride the bus. The transportation company develops the bus routes, hires the drivers, owns the vehicles, and performs all of the maintenance on the vehicles. The transportation company and the school have the same FEIN.	Yes
The school contracts with a 3 rd party lunch provider. The contract requires that the lunch provider provide nutritional meals on school days that meet the USDA food program requirements.	No

28

The next example is a situation where a school contracts for all of its administrators, teachers, and teacher aides. The school is directing and controlling the administrator, teachers, and teacher aides because each of these individuals is subject to the private school's policies and procedures. As a result, a background check should be completed. Generally, any time an administrator, teacher, or teacher aide is being contracted, the individual will be an employee since the school is typically directing the required work for the individual. Similar to the substitute teacher example, the school could obtain the background check from the organization they are contracting from to help with the completion of the background check requirements.

The school would be required to do a background check for the transportation company because the transportation company is the same legal entity as the school. Therefore, they are considered to be employees of the school. Any employees at the transportation company that are directly or indirectly related to educational programming must have a background check completed in this situation.

If the transportation company and the school were different legal entities, but all of the remaining facts and circumstances were the same, the school would not be required to complete background checks for the employees of the transportation company. The background check would not be required in this case because the

school is not directing and controlling the transportation company. Further, the company has its own drivers and vehicles, indicating they are an independent contractor. As a reminder, school bus drivers have certain background check requirements they must meet in order to obtain and maintain their license to drive buses.

The final one is that the school contracts with a third party lunch provider. In this scenario, a background check would not be required. The reason is that the school is providing the contractor with general requirements, that healthy meals be provided, but is not directing or controlling how that is achieved.

On the other hand, if the school required particular lunches, the kitchen equipment at the school was used, and the school required that specific staff cook and serve the lunch, these individuals would generally be considered under the direction and control of the school. Further, since the kitchen equipment of the school is being used in that circumstance, it is likely that these individuals would not be considered independent contractors resulting in a background check being required.

Knowledge Check 1C

- Determine if the school is required to complete a background check for each of the following individuals.

Individual/Company Description	Background Check Required?
The school contracts with an individual. The contract requires that the individual develop a new English curriculum. The school requires that the curriculum meet the core standards, be sequentially progressive and be developed in 2 months. The individual has developed curriculum for other schools in the past.	
2 schools that are separate legal entities share an aide who specializes in speech and language services. School A has the aide on their payroll and pays the aide for all of the services to both schools. School A bills School B for the services provided. Does School B need a background check?	
One of the parents comes in during the lunch hour and serves lunch. The parent is not paid as part of the school's payroll processing for employees, rather the parent receives a check directly from the school. The school issues a 1099 annually for the parent.	
The school contracts with a guest speaker to give a presentation to the seniors on how to make career choices. The speaker provides the speeches across the country.	

Review the slide to determine if, based on facts provided, a background check would be required. Then go to the next slide for the answers and information on why a background check may or may not be required.

Please note the determination of whether or not an individual is an employee and directly or indirectly related to educational programming will vary based on the specific facts and circumstances of each school. This information is provided to assist in that determination.

Knowledge Check 1C-Answers

- Determine if the school is required to complete a background check for each of the following individuals.

Individual/Company Description	Background Check Required?
The school contracts with an individual. The contract requires that the individual develop a new English curriculum. The school requires that the curriculum meet the core standards, be sequentially progressive and be developed in 2 months. The individual has developed curriculum for other schools in the past.	No
2 schools that are separate legal entities share an aide who specializes in speech and language services. School A has the aide on their payroll and pays the aide for all of the services to both schools. School A bills School B for the services provided. Does School B need a background check?	Yes
One of the parents comes in during the lunch hour and serves lunch. The parent is not paid as part of the school's payroll processing for employees, rather the parent receives a check directly from the school. The school issues a 1099 annually for the parent.	Yes
The school contracts with a guest speaker to give a presentation to the seniors on how to make career choices. The speaker provides the speeches across the country.	No

This example is a situation where a school contracts with an individual to provide curriculum. In this case, the school is not specifically requiring that the individual do specific items to develop the curriculum or requiring that the individual work at specific times. Instead the individual is given general guidelines that the curriculum must be sequentially progressive, meet the core standards, and be developed within 2 months. Additionally, the individual has developed curriculum for schools in the past, which is an indication that they are an independent contractor rather than an employee. As a result, a background check would not be required.

The next example is where two schools share an employee. School A pays the school's salary and School B reimburses School A. In this situation, School B is directing and controlling the employee when they are working at School B. That individual is subject to the school's policies and procedures when they are at the school. As a result, School B would need to complete a background check. School A and School B could work together in this situation to complete one background check which both of the schools could use.

A parent comes in during the lunch hour and serves lunch. This parent is not paid through the payroll system but receives checks from the school and a 1099 at the end of the school year. The school is directing and controlling the parent and the parent is

essentially acting as an employee of the school. As a result, a background check would be required. As a reminder, if the parent volunteered their services and was not paid, a background check would not be required.

The final example is a situation where the school contracts with a guest speaker to present on career choices. This speaker provides this presentation across the country. The school is not directing the speaker; instead the speaker is providing the information they do at other events. As a result, this individual would not be considered an employee.

Knowledge Check 2

- Which of the following employees are considered directly or indirectly related to educational programming (there may be multiple answers)?
 - a) The church secretary. The church and school are the same legal entity and in the same building. The church secretary does not work on school related items or interact with students.
 - b) The individual responsible for soliciting donations for the school. The individual works from home.
 - c) The accountant for the school. The accountant has an office in an administrative building not on the school premise.

31

The individuals in b and c would be considered directly or indirectly related to educational programming. The individual responsible for soliciting donations is related to the school administrative function. The accountant is considered directly or indirectly related to educational programming because their job relates to the financial components of the school. Additionally, the compensation for both of these individuals is likely included as eligible in the Choice/SNSP financial audit. As a reminder, individuals who are directly or indirectly related to educational programming AND employees of the school are required to have a background check. The school would next determine if these individuals are employees of the school to conclude whether a background check is required.

On the other hand, the church secretary is not considered directly or indirectly related to educational programming because she does not meet any of the three criteria. Because she is not directly or indirectly related to educational programming, the school would not be required to complete a background check for the church secretary even if she is determined to be an employee of the school.

Knowledge Check 3

True or False

A school is not required to complete a background check for individuals who volunteer at the school.

32

The correct answer is True. Background checks are not required if the individual only volunteers their time and does not receive any compensation from the school or another agency for working at the school.

Knowledge Check 3

True or False

If a school determines that the individuals at The Substitutes Company are employees of the school, the school must complete the background check for all of the employees at The Substitutes Company.

33

The correct answer is False. If the school and The Substitutes Company are separate legal entities, the school would only be required to complete background checks for those individuals who are employees of the school and who are directly or indirectly related to educational programming. For example, if a school contracts with a temporary agency for substitute teachers, the school would generally not be required to complete a background check for the administrative personnel at the staffing agency and any substitute teachers who do not work at the school since they would generally not be under the direction and control of the school.

Questions

Email:

snsp@dpi.wi.gov or dpichoiceauditreports@dpi.wi.gov

Phone:

1-888-245-2732 ext. 3 (Choice) or 4 (SNSP)



Background Check Bulletin Available At:

- Choice: <https://dpi.wi.gov/parental-education-options/choice-programs/bulletins>
- SNSP: <https://dpi.wi.gov/parental-education-options/special-needs-scholarship/bulletins>

34

If you have any questions about the information discussed in this module please contact the SNSP or Choice program team using an email address or phone number on this slide.

You may also review the Criminal Background Checks bulletin, which includes a FAQ section and links to resources that can be used to complete the background check.