

# Appeal Process for National Background Check Program

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The Kentucky National Background Check Program utilizes background check information gathered from the FBI and KSP central repositories in an effort to complete a fitness determination on applicants seeking employment in vulnerable care settings. In order to determine the eligibility status of an applicant, background checks completed through this program compare criminal history information from across the United States to disqualifying events found in 906 KAR 1:190. A disqualified applicant has the right to an appeal process as described in this document.

## **I. Challenge Requests**

**Criminal Background Check:** A copy of the disqualifying criminal history events can be provided to the applicant with the applicant's written request to the National Background Check Program. Requests must be signed, dated, and mailed to National Background Check Program, Office of the Inspector General, 275 East Main St, 5E-A, Frankfort KY 40621. Faxed requests must also be signed and dated, and may be sent to (502) 564 - 6546 Attention: National Background Check Program.

If an applicant believes that the information contained in his or her Kentucky criminal background check report is incomplete or inaccurate, the applicant may contact the Kentucky State Police, Criminal Records Dissemination Section at (502) 227-8700.

### **Out of State Criminal History Information**

If the applicant believes any information found in their out of state criminal history report is incomplete or inaccurate, the applicant must contact the out of state agency responsible for this information.

**Abuse Registries:** If an applicant believes that his or her name is listed on one of the following abuse registries in error, the applicant may contact the agency responsible for the abuse registry as follows:

- **List of Excluded Individuals/Entities (LEIE)** – Contact the federal Office of Inspector General
  - <http://oig.hhs.gov/contact-us/>
- **Kentucky Nurse Aide Abuse Registry** – Contact the Kentucky Office of Inspector General
  - (502) 564-7963.
- **Kentucky Caregiver Misconduct Registry** - Contact the Kentucky Ombudsman Office
  - (800) 372-2973 or (502) 564-5497
- **Kentucky Child Abuse and Neglect Registry** - Contact the Kentucky Ombudsman Office
  - (800) 372-2973 or (502) 564-5497

Out of state abuse registry findings must be addressed with the out of state agency responsible for maintaining the abuse record.

**Professional Licensing:** If an applicant believes that his or her professional license is incorrectly reported as “not in good standing” or otherwise inactive, the applicant may contact the agency responsible for the licensing data.

## **II. Request for Informal Review**

If an applicant wishes to challenge the accuracy of the OIG's fitness determination, the applicant may request an informal review as follows:

**Step One:** The applicant must sign, date, and send a written request for an informal review no later than 10 days from the date of the “Not Eligible” notice to the following address:

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National Background Check Program  
Office of Inspector General  
275 East Main Street, 5E-A  
Frankfort, Kentucky 40621

**Step Two:** The applicant's written request must include a copy of the disqualifying event information and official documentation verifying the event was dismissed or otherwise removed from the applicant's criminal history.

\*See Request for Administrative Hearing if dissatisfied with outcome of the informal review.

## **III. Request for Rehabilitation Review**

Certain criminal offenses found upon completion of the fingerprint check are eligible for consideration under the rehabilitation review process. In this process, the applicant acknowledges they have criminal offenses that have disqualified them pursuant to 906 KAR 1:190, however, the applicant feels they are able to provide substantial proof of their rehabilitation. Offenses not eligible for consideration under the rehabilitation review process include the following:

1. A disqualifying offense that occurred less than seven (7) years prior to the date of the criminal background check;
2. A criminal conviction related to abuse, neglect, or exploitation of an adult or child;
3. Registration as a sex offender under federal law or under the law of any state; or
4. A conviction of a violent crime.

A request for rehabilitation review shall be made as follows:

1. A written request must be signed, dated, and mailed to the National Background Check Program at the address provided above;
2. Be mailed no later than 14 calendar days from the date of the Cabinet's determination of "Not Eligible" notice;
3. Be accompanied by a written explanation of each disqualifying criminal offense, including:
  - A description of the events related to the registry finding or disqualifying offense;
  - The number of years since the occurrence of the registry finding or disqualifying offense;
  - The identification of any other individuals involved in the offense;
  - The age of the offender at the time of the registry finding or disqualifying offense; and
  - Any other circumstances surrounding the registry finding or offense;
  - Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or documentation showing adherence to a payment schedule, if applicable;
  - The date probation or parole was satisfactorily completed, if applicable;
  - Written statements from employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently; and
  - A written letter documenting how you have overcome this obstacle and went on to better your life (i.e. educational opportunities you have taken advantage of, career opportunities, family life, etc.).

\*See Request for Administrative Hearing if dissatisfied with outcome of the rehabilitation review.

## **IV. Request for Administrative Hearing**

An applicant may appeal the results of an informal or rehabilitation review by submitting a written request for an administrative hearing to the Office of the Ombudsman, Cabinet for Health and Family Services, 275 East Main St., 1E-B, Frankfort, KY 40621 within thirty (30) days of notice of the outcome of the informal or rehabilitation review. The written request must be signed and dated.