

**§ 2540.202 What eligibility criteria apply to an individual for whom a National Service Criminal History Check is required?**

An individual shall be ineligible to work or serve in a position specified in § 2540.201(a) if the individual—

(a) Refuses to consent to a criminal history check described in § 2540.204;

(b) Makes a false statement in connection with a criminal history check described in § 2540.204;

(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or

(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.

[86 FR 11147, Feb. 24, 2021]

**§ 2540.203 May a grant recipient or subrecipient or service site establish and apply suitability criteria for individuals to work or serve in a position specified in this subpart?**

Grant recipients and subrecipients, or service sites, may establish suitability criteria, consistent with state and Federal Civil Rights and non-discrimination laws, for individuals working or serving in a position specified in § 2540.201(a). While members may be eligible to work or serve in a position specified in § 2540.201(a) based on the eligibility requirements of § 2540.202, a grant recipient, subrecipient, or service site may determine that an individual is not suitable to work or serve in such a position based on criteria that the grant recipient or subrecipient or service site establishes.

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**§ 2540.204 What are the components of a National Service Criminal History Check?**

(a) Unless CNCS approves a waiver under § 2540.207, for each individual in a position specified in § 2540.201, grantees or subgrantees must, obtain:

(1) A nationwide check of the National Sex Offender Public website through *NSOPW.gov*;

(2) A check of the State criminal history record repository or agency-designated alternative for the individual's State of residence and State of service; and

(3) A fingerprint-based check of the FBI criminal history record database through the State criminal history record repository or agency-approved vendor.

(b) One way for grant recipients or subrecipients to obtain and document the required components of the National Service Criminal History Check is through the use of agency-approved vendors.

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**§ 2540.205 By when must the National Service Criminal History Check be completed?**

(a) The National Service Criminal History Check must be conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient based on the results of the National Service Criminal History Check *before* a person begins to work or serve in a position specified in § 2540.201(a).

(b) If a person serves consecutive terms of service or employment with the same organization in a position specified in § 2540.201(a) and does not have a break in service or employment longer than 180 days, then no additional National Service Criminal History Check is required, as long as the original check complied with the requirements of § 2540.204. If a National Service Criminal History Check was not conducted on a person because they were under the age of 18 at the time they began their prior term(s) of service or employment in a covered position, pursuant to § 2540.201(b), a National Service Criminal History check must be conducted prior to the individual beginning a subsequent term of work or service for which the person is 18 years of age or older at the start of work or service.

(c) Persons working or serving in positions specified in § 2540.201(a) prior to May 1, 2021, who continue working or serving in a position specified in § 2540.201(a) on or after November 1, 2021, must have a National Service Criminal History Check conducted, reviewed, and an eligibility determination made by the grant recipient or subrecipient based on the results of the National Service Criminal History Check completed in accordance with