Requesting the BCII and FBI Background Check

In September 2013 BCII disseminated lists of BCII reason codes and FBI reason codes.

Unfortunately, the memo caused confusion and many of you have contacted DODD requesting information on which reason code to use. In talking to you, DODD discovered providers were using a variety of reason codes when requesting BCII checks and FBI checks.

The purpose of this guidance is to (1) explain what reason codes are and (2) tell you which reason codes to use when requesting BCII or FBI background checks.

1. **What are reason codes and why are they needed**
2. **BCII Reason Codes**

A reason code is (1) the specific Ohio Revised Code statute that requires an applicant for employment or an employee to undergo a background check and (2) the specific Ohio Revised Code statute that authorizes BCII to conduct the background check of an applicant or an employee.

When an employer provides a reason code, it is asserting that a specific statute requires the applicant or an employee to undergo the background check in order to be employed (maintain employment) or receive certification.

Once BCII is given the reason code, it conducts the background check to see if an applicant or an employee has a conviction for any of the offenses listed in the statute that was supplied as the reason the applicant or employee is undergoing the check.

There are numerous statutes that require BCII to conduct background checks. It is important to use the correct reason code as failure to do so means BCII is not looking at the correct statute that authorizes it to conduct the background check on the applicant/employee. If the incorrect reason code is provided, BCII will be looking at the wrong list of offenses.

BCII is aware that the legislature has revised the statutes that require applicants and employees to have a background check and the list of reason codes it recently distributed needs to be revised.

1. **FBI Reason Codes**

The FBI reason codes are determined by the FBI. BCII provides a list of its reason codes to the FBI. Again, BCII reason codes are the various statutes in the Ohio Revised Code that require BCII to do a background check. The FBI in reviewing the list has decided to adopt some but not all of the BCII reason codes. The FBI has a specific reason code, NCPA/VCA, for persons who will be working with children, elderly and individuals with disabilities.

1. **Which statutes require background checks within Ohio’s developmental disability system**

House Bill 487 of the 129th General Assembly Amended Chapters 5123 and 5126 of the Revised Code in a number of ways including the repeal of the background check statutes 5126.28 and 5126.281 and revised both R. C. 5123.081 and R. C. 5123.169.

In Ohio’s developmental disability system, R. C. 5123.081 requires background checks of employees of DODD, county boards of developmental disabilities and people employed in direct services positions. R. C. 5123.169 requires background checks of applicants for certification as independent supported living providers and agency CEOs of supported living providers.

1. **From the list of reason codes provided by BCII, which one should be used by county boards, agency providers, ICF/IDD, independent providers seeking supported living certification and for the chief executive officer (CEO) of agency’s seeking supported living certification?**
2. **For BCII Background Checks Use 5123.081**

**Although there are two statutes that authorize background checks, DODD, county boards, independent and agency providers and CEO of agency providers are to use the BCII reason code 5123.081.**

Again, the reason code is the specific statute that requires and authorizes BCII to conduct a background check. **5123.081 reason code** must be used as it authorizes BCII to report the results of sealed convictions. **Note:** Although R. C. 5123.169 authorizes the background check of independent providers and agency CEOs this statute is not on the list of BCII reason code. Therefore, independent providers and agency CEOs are to use the BCII reason code 5123.018. Reason Code 5123.018 allows BCI to report convictions that have been sealed.

1. **Does BCII Intend to correct the reason codes**

In talking with BCII, it is aware of the need to correct the reason codes. It knows that

R. C. 5126.28 and R. C. 5126.281 have been repealed. It intends to revise the name of reason code 5123.081 to be: “Employees of DODD and county boards of DD, and contracting DD” (which is the agency providers and ICFs, independent providers, agency CEOs). Unfortunately, BCII did not ask DODD before creating the reason code’s name. But the name of the reason code is not important, as the reason code is the specific statute that authorizes the background check.

1. **For FBI Background Checks Use**

For the FBI check, the reason code that is to be used is NCPA/VCA for children, elderly and individuals with disabilities. It is our understanding that BCII is requesting that the FBI update its list of reason codes.

1. **What if an agency provides services to individuals with DD as well as individuals in the aging system or some other system**

R. C. 109.572(A)(3) states that when BCII is requested to conduct a record check pursuant to 173.27, 173.38, 3701.881, 5164.34, 5164.341, 5164.342, 5123.081, or 5123.169 of the Revised Code, the list of offenses for these statutes is the same. Therefore, if you are an agency that must comply with more of the statutes listed above, you may only use one reason code. Therefore you can use reason code 5123.081. However, you are also advised to confer with your legal counsel.

If you must comply with the background check requirements for another agency, such as the Department of Education, you will need to run separate background checks on the applicant/employee using two different reason codes to make sure that you are complying with the requirements of both statutes.