

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Inspector General

3 Division of Health Care

4 (Amendment)

5 906 KAR 1:190. Kentucky National Background Check~~[Applicant Registry and Em-~~  
6 ~~ployment Screening]~~ Program.

7 RELATES TO: 42 U.S.C. 1320 a-7l, 42 U.S.C. 5119a(a)(1), 42 U.S.C. 5119c, KRS  
8 Chapter 13B

9 STATUTORY AUTHORITY: KRS 194A.050(1), 42 U.S.C. 1320a-7l

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the sec-  
11 retary of the Cabinet for Health and Family Services to promulgate administrative regu-  
12 lations necessary to operate programs and fulfill the responsibilities vested in the cabi-  
13 net, qualify for the receipt of federal funds, and cooperate with other state and federal  
14 agencies for the proper administration of the cabinet and its programs. 42 U.S.C.  
15 1320a-7l directs the secretary of the United States Department of Health and Human  
16 Services to establish a program to identify efficient, effective, and economical proce-  
17 dures for long-term care facilities or providers to conduct background checks on pro-  
18 spective direct patient access employees on a nationwide basis. On May 20, 2011, the  
19 Commonwealth of Kentucky was the twelfth state to receive a National Background  
20 Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Ser-  
21 vices under 42 U.S.C. 1320a-7l. On the date this amendment ~~[amended after com~~

ments administrative regulation] was filed with the Legislative Research Commission, twenty-six (26) [twenty-four] states and territories had received an NBCP grant. The Cabinet for Health and Family Services, Office of Inspector General is charged with responsibility to oversee and coordinate Kentucky's fingerprint-supported NBCP grant initiative[, called the KARES "Kentucky Applicant Registry and Employment Screening" Program]. This administrative regulation establishes procedures for the implementation of Kentucky's NBCP [KARES] as a voluntary program. A key component of the Kentucky NBCP is a secure, web-based system called the KARES system, which is used to facilitate registry and fingerprint-supported state and national criminal background checks. [The Cabinet for Health and Family Services encourages long-term care facilities and providers to participate in KARES as the grant program provides employers with an enhanced pre-employment screening mechanism intended to help protect elderly and vulnerable adults from potential abuse, neglect, and exploitation.] The conditions set forth in this administrative regulation for voluntary KARES system [program] participants are in addition to the name-based, state only background check requirements of KRS 216.533, 216.712(2), 216.787, and 216.789.

Section 1. Definitions. (1) "Applicant" means an individual who:

(a) Applies for employment with an employer identified in subsection (6) of this section; or

(b) Is subject to background screening by a professional licensing board that enrolls contingent upon approval by the Federal Bureau of Investigation and Department of Kentucky State Police in the Kentucky NBCP.

(2) "Cabinet" means the Cabinet for Health and Family Services.

(3) "Criminal background check" means a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) and includes a comparison of the applicant's fingerprints with any fingerprints that may be on file with KSP or the FBI.

(4) "Disqualifying offense" means:

(a) A conviction of, or a plea of guilty, an Alford plea, or a plea of nolo contendere to:

1. A misdemeanor offense related to:

a. Abuse, neglect, or exploitation of an adult as defined by KRS 209.020(4);

b. Abuse, neglect, or exploitation of a [or] child;

c. [,-or] A sexual offense;

d. Assault occurring less than seven (7) years from the date of the criminal background check;

e. Stalking occurring less than seven (7) years from the date of the criminal background check;

f. Domestic violence occurring less than seven (7) years from the date of the criminal background check;

g. Theft occurring less than seven (7) years from the date of the criminal background check;

h. Fraud occurring less than seven (7) years from the date of the criminal background check;

i. Possessing or trafficking in a controlled substance occurring less than seven (7) years from the date of the criminal background check; or

j. Any other misdemeanor offense relating to abuse, neglect, or exploitation that is not

1 listed in this subsection and occurred less than seven (7) years from the date of the  
2 criminal background check;

3 2. A criminal offense against a victim who is a minor, as defined in KRS 17.500;

4 3. A felony offense involving a child victim;

5 4. A felony offense under:

6 a. KRS Chapter 209, protection of adults;

7 b. KRS Chapter 218A, controlled substances;

8 c. KRS Chapter 434, offenses against property by fraud[507.020];

9 d. KRS Chapter 507, criminal homicide[507.030];

10 e. KRS Chapter 507A, fetal homicide[507.040];

11 f. KRS Chapter 508, assault and related offenses;

12 g. KRS Chapter 509, kidnapping and related offenses;

13 h. KRS Chapter 510, sexual offenses;

14 i. KRS Chapter 511, burglary and related offenses;

15 j. KRS Chapter 512, criminal damage to property;

16 k. KRS Chapter 513, arson and related offenses;

17 l. [~~k.~~] KRS Chapter 514, theft and related offenses [514.030];

18 m.[~~l.~~] KRS Chapter 515, robbery;

19 n.[~~m.~~] KRS Chapter 516, forgery and related offenses [529.100];

20 o. KRS Chapter 517, business and commercial frauds [~~n. KRS 529.110~~];

21 p. KRS Chapter 520, escape and other offenses related to custody;

22 q. [~~o.~~] KRS Chapter 525, riot, disorderly conduct, and related offenses;

23 r. KRS Chapter 527, offenses relating to firearms and weapons;

1 s. KRS Chapter 529, prostitution offenses;

2 t. KRS Chapter 530, family offense, excluding KRS 530.050; [and]

3 u. [p-] KRS Chapter 531, pornography; or

4 v. Any other felony offense relating to abuse, neglect, exploitation, drugs, theft, or  
5 fraud not listed in this subsection;

6 5. An offense under a criminal statute of the United States or of another state similar  
7 to an offense specified in this paragraph; or

8 6. A crime described in 42 U.S.C. 1320a-7;

9 (b) A substantiated finding of neglect, abuse, or misappropriation of property by a  
10 state or federal agency pursuant to an investigation conducted in accordance with 42  
11 U.S.C. 1395i-3 or 1396r;

12 (c) Registration as a sex offender under federal law or under the law of any state; or

13 (d) Being listed on a registry as defined in subsection (9) of this section.

14 (5) "Employee" means an individual who:

15 (a)1. Is hired directly or through contract by an employer defined in subsection (6) of  
16 this section, and has duties that involve or may involve one-on-one contact with a pa-  
17 tient, resident, or client; or

18 2. Unless excluded pursuant to Section 2(3)(c) through (e) of this administrative regu-  
19 lation, is a volunteer who has duties that are equivalent to the duties of an employee  
20 providing direct services and the duties involve, or may involve, one-on-one contact with  
21 a patient, resident, or client; and

22 (b) Has access to the personal belongings or funds of a patient, resident, or client.

23 (6) "Employer" means:

- 1 (a) A long-term care facility as defined in KRS 216.510;
- 2 (b) A nursing pool as defined in subsection (8) ~~[(7)]~~ of this section providing staff to a  
3 long-term care facility or provider;
- 4 (c) An adult day health care program as defined in KRS 216B.0441;
- 5 (d) An assisted living-community as defined in KRS 194A.700;
- 6 (e) A home health agency as defined in KRS 216.935;
- 7 (f) A provider of hospice care as defined in 42 U.S.C. 1395x(dd)(1) and licensed pur-  
8 suant to KRS Chapter 216B;
- 9 (g) A personal services agency as defined in KRS 216.710;
- 10 (h) A long-term care hospital as defined in 42 U.S.C. 1395ww(d)(1)(B)(iv);
- 11 (i) A provider of home and community-based services authorized under KRS Chapter  
12 205;
- 13 (j) A staffing agency with a contracted relationship to provide one (1) or more em-  
14 ployers as listed in this subsection with staff whose duties are equivalent to duties per-  
15 formed by an employee pursuant to subsection (5) of this section; ~~[or]~~
- 16 (k) Any other health facility or service licensed pursuant to KRS Chapter 216B that  
17 applies to participate voluntarily in the KARES program; or
- 18 (l) Any other provider licensed by the cabinet for which a state and national back-  
19 ground check is required as a condition of employment.
- 20 (7) "Kentucky National Background Check Program" or "NBCP" means a background  
21 screening program administered by the Cabinet for Health and Family Services, Office  
22 of Inspector General to facilitate registry and fingerprint-supported state and national  
23 criminal history background checks conducted by the Department of Kentucky State Po-

lice and the Federal Bureau of Investigation for the following:

(a) Prospective employees of any employer identified in subsection (6)(a) through (k) of this section that participates voluntarily in the Kentucky National Background Check Program;

(b) Any other individuals required by state law or administrative regulation to submit to a state and national background check as a condition of:

1. Employment; or

2. Licensure, certification, or registration by a professional licensing board that enrolls contingent upon approval by the Federal Bureau of Investigation and Department of Kentucky State Police in the Kentucky NBCP; and

(c) May include individuals seeking approval as a kinship caregiver or foster or adoptive parent.

(8) "Nursing pool" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in or with a long-term care facility or provider for medical personnel, including nurses, nursing assistants, nursing aides, and orderlies.

(9) [(8)] "Registry" means the:

(a) Nurse aide abuse registry maintained pursuant to 906 KAR 1:100 and 42 C.F.R. 483.156;

(b) Child abuse and neglect registry maintained pursuant to 922 KAR 1:470 and required by 42 U.S.C. 671(a)(20);

(c) List of Excluded Individuals and Entities maintained by the United States Department of Health and Human Services, Office of Inspector General pursuant to 42 U.S.C.

1 1320a-7; [and]

2 (d) Caregiver misconduct registry required by KRS 209.032; and

3 (e) Any available abuse registry, including the abuse and neglect registries of another  
4 state if an applicant resided or worked in that state.

5 (10) [(9)] "State" is defined by KRS 446.010(40).

6 (11) [(10)] "Violent offender" is defined by KRS 439.3401(1)" ~~[crime" means a convic-~~  
7 ~~tion of, or a plea of guilty, an Alford plea, or a plea of nolo contendere to a capital of-~~  
8 ~~fense, Class A felony, or Class B felony involving the death of the victim, rape in the first~~  
9 ~~degree or sodomy in the first degree of the victim, sexual abuse in the first degree, or~~  
10 ~~serious physical injury to a victim].~~

11 Section 2. Applicability and Exceptions. (1) This administrative regulation shall apply  
12 to:

13 (a) Prospective cabinet staff ~~[hired on or after the effective date of this administrative~~  
14 ~~regulation]~~ whose duties include conducting inspections of:

15 1. Health facilities and services licensed pursuant to KRS Chapter 216B; or

16 2. Services regulated pursuant to KRS 194A.700 through 194A.729, or KRS 216.710  
17 through 216.714;

18 (b) Prospective employees~~[hired on or after the effective date of this administrative~~  
19 ~~regulation]~~ of state-owned or operated health facilities licensed pursuant to KRS Chap-  
20 ter 216B;

21 (c) Prospective cabinet staff~~[hired on or after the effective date of this administrative~~  
22 ~~regulation]~~ who have or may have one-on-one contact with a patient or resident of an  
23 employer defined by Section 1(6) of this administrative regulation; and



(d) Prospective employees seeking employment with a private employer that participates voluntarily in the Kentucky National Background Check [KARES] Program ~~[hired on or after the effective date of this administrative regulation]~~.

(2) This administrative regulation shall not apply to current cabinet staff or current employees of any employer that participates voluntarily in the Kentucky National Background Check [KARES] program ~~[that are employed before the effective date of this administrative regulation]~~.

(3) A prospective employee shall not include:

(a) An individual who independently contracts with a KARES-participating employer to provide utility, construction, communications, or other services if the contracted services are not directly related to the provision of services to a resident, patient, or client of the employer;~~[or]~~

(b) A board certified physician, surgeon, ~~[or]~~ dentist, psychologist, psychiatrist, podiatrist, audiologist, ophthalmologist, optometrist, dietician, therapist, phlebotomist, or any health care practitioner under contract with a participating employer in which a background check is required as a condition of professional licensure;

(c) A member of a community-based or faith-based organization that provides volunteer services that do not involve unsupervised interaction with a patient or resident;

(d) A student participating in an internship program; or

(e) A family member or friend visiting a patient or resident ~~[KARES-participating employer]~~.

Section 3. Continuous Assessment. (1) To ensure that the information remains current in the KARES system, the cabinet shall collaborate with the Department of Ken-

tucky State Police (KSP) to implement a mechanism for continuous assessment in which KSP:

(a) Retains the fingerprints of an individual screened under the Kentucky NBCP:

1. For a minimum period of five (5) years from the date of fingerprint submission; and

2. On a five (5) year renewal basis thereafter; and

(b) Facilitates the retention of the fingerprints by the FBI upon approval to participate in the FBI's Next Generation Identification (NGI) rap back service.

(2) Upon implementation of the process for continuous assessment, the Department of Kentucky State Police may provide notification to the cabinet of triggering events for each applicant after initial processing of the applicant's criminal background check, subject to any applicable regulations of the Department of Kentucky State Police and the FBI.

Section 4. Enrolling in the Kentucky NBCP. To enroll in the Kentucky NBCP, an employer or a participating professional licensing board shall:

(1) Log on to the KARES portal; and

(2) Confirm acceptance of the terms and conditions for using the KARES system  
~~tem[Agreement to Participate. An employer that elects to participate in KARES voluntarily shall complete and submit an Agreement to Participate in the KARES Program].~~

Section 5 [4]. Registry and Criminal Background Checks: Procedures and Payment.

(1) To initiate the process for obtaining a background check on a prospective employee or licensee, the employer or participating professional licensing board shall:

(a) Request that the applicant provide a copy of his or her driver's license or other government-issued photo identification and verify that the photograph clearly matches

the applicant;

(b) Request that the applicant sign the OIG 1:190-1, Disclosures to be Provided to and Signed by Applicant for Employment or Licensure; ~~[complete a: 1. Disclosure Form; and 2. Consent and Release Form; and]~~

(c) Request that the applicant complete the OIG 1:190-2, Waiver Agreement and Statement; and

(d) Log on to the KARES portal, which shall be a secure web-based system maintained by the cabinet, and enter the applicant's demographic information for a check of:

1. Each registry as defined by Section 1(9)(8) of this administrative regulation; and
2. Available databases maintained separately by the Kentucky Board of Medical Licensure, Kentucky Board of Nursing,~~[and]~~ Kentucky Board of Physical Therapy, and any other available professional licensing board with oversight of health care professionals, including behavioral health professionals, to validate the applicant's professional licensure status, if applicable.

~~(2)[An applicant who is found on the child abuse and neglect central registry maintained pursuant to 922 KAR 1:470 may request a rehabilitation review pursuant to Section 9 of this administrative regulation.~~

~~(3)(a)]~~ If an applicant is cleared for hire after a check of the registries and databases identified in subsection (1)(d)(e) of this section, the participating entity~~[employer]~~ shall submit payment via credit or debit card for the criminal background check.

~~(3)(a)[(b)1. Effective until May 19, 2014, or]~~ Until NBCP grant funds are depleted, employers identified in Section 1(6)(a) through (j) of this administrative regulation shall pay a fee of twenty (20) dollars for a fingerprint-supported state and national criminal

background check, which includes the cost of the Kentucky NBCP and the fees of the Department of Kentucky State Police and the FBI.

(b) A participating entity enrolled in the Kentucky NBCP and not identified in Section 1(6)(a) through (i) of this administrative regulation shall pay a fee not to exceed twenty-five (25) dollars in addition to any fees charged by the Department of Kentucky State Police and the FBI for the actual cost of processing a fingerprint-supported state and national criminal background check and for providing continuous assessment services as described in Section 3(2) of this administrative regulation.

(c) If an applicant's continuous assessment period identified under Section 3 of this administrative regulation has not expired, a fee of twenty (20) dollars shall be charged to view the applicant's current fitness determination and process a new application, in which case a new fingerprint check is not needed.

(d)1. After NBCP grant funds are depleted, the total cost of a fingerprint-supported state and national criminal background check charged to an employer identified in Section 1(6) of this administrative regulation shall not exceed actual costs of the Kentucky NBCP and the fees charged by the Department of Kentucky State Police and the FBI for the actual cost of processing criminal background checks and for continuous assessments.

2. If an applicant has not been previously fingerprinted under the Kentucky NBCP or if the applicant's continuous assessment period has expired, a fee not to exceed twenty-five (25) dollars shall be charged to the employer to cover the cabinet's administrative cost for facilitating a criminal background check in addition to any fees charged by the Department of Kentucky State Police and the FBI for a fingerprint-supported state and

national criminal background check and for continuous assessment services as de-  
scribed in Section 3(2) of this administrative regulation~~[whichever date is later, employ-~~  
~~ers shall pay the twenty (20) dollar fee charged by the Justice and Public Safety Cabinet~~  
~~pursuant to paragraph (d)1. of this subsection.~~

~~2. Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever~~  
~~date is later, grant monies shall be used to subsidize:~~

~~a. The cost of the national criminal background check charged by the Federal Bureau~~  
~~of Investigation pursuant to paragraph (d)2. of this subsection; and~~

~~b. The administrative cost charged by the cabinet pursuant to paragraph (d)3. of this~~  
~~subsection.~~

~~(c) Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever~~  
~~date is later, the cabinet shall pay all costs identified in paragraph (d) of this subsection~~  
~~if a criminal background check is conducted on behalf of a prospective provider of home~~  
~~and community-based services authorized under KRS Chapter 205. This exemption for~~  
~~providers of home and community-based services is a condition of the NBCP grant.~~

~~(d) After May 19, 2014, or after NBCP grant funds are depleted, whichever date is~~  
~~later, the total cost of a criminal background check charged to employers shall be sixty-~~  
~~three (63) dollars, divided into the following components:~~

~~1. A fee of twenty (20) dollars charged by the Justice and Public Safety Cabinet;~~

~~2. A fee of sixteen (16) dollars and fifty (50) cents charged by the Federal Bureau of~~  
~~Investigation; and~~

~~3. A fee of twenty-six (26) dollars and fifty (50) cents charged by the cabinet to cover~~  
~~the cost of facilitating the criminal background check].~~

1 (4)(a) Upon submission of payment pursuant to subsection (3) of this section, the  
2 employer or other participating entity shall print a copy of the Live Scan Fingerprinting  
3 Form from the KARES portal and provide the form to the applicant.

4 (b) The applicant shall:

- 5 1. Have thirty (30) calendar days from the date of payment pursuant to subsection (2)  
6 [(3)] of this section to submit his or her fingerprints at an authorized collection site; and  
7 2. Present the Live Scan Fingerprinting Form and driver's license or other govern-  
8 ment-issued photo identification to the designated agent at an[the] authorized collection  
9 site prior to fingerprint submission.

10 (5) Upon completion of a criminal background check, the cabinet~~[shall]~~:

11 (a) Shall provide notice to the employer that the applicant is:

- 12 1. Eligible for ~~[Clear to]~~ hire; ~~[.]~~ or  
13 2. Not eligible for ~~[clear to]~~ hire if the applicant is found by the cabinet to have a dis-  
14 qualifying offense as identified in Section 1(4) of this administrative regulation; ~~[and]~~

15 (b) May release any record of state ~~[Not disclose the applicant's]~~ criminal history  
16 found in the files of the Kentucky centralized criminal history record information system  
17 to the employer or entity listed on the OIG 1:190-2, Waiver Agreement and Statement  
18 incorporated by reference in Section 14 of this administrative regulation; and

19 (c) 1. Shall, upon receipt of a written request from an applicant, send a copy if any of  
20 a KSP or FBI criminal history report to the applicant by certified mail, restricted delivery  
21 service.

22 2. The applicant shall show proof of identity and sign to receive his or her criminal  
23 history report from the local post office.

1     (6) An employer is not obligated to employ or offer employment to an individual who  
2     has been found by the cabinet to be eligible for hire pursuant to subsection (5)(a) of this  
3     section.

4     Section 6.~~[5.]~~ Provisional Employment. (1) If an applicant is not found on a registry  
5     and the individual's license has been validated, if applicable, an employer may hire the  
6     applicant for a period of provisional employment pending completion of the criminal  
7     background check.

8     (2) The period of provisional employment shall:

9     (a) Not commence prior to the date the applicant submitted his or her fingerprints;  
10    and

11    (b) Not exceed sixty (60) calendar days from the date of fingerprint collection.

12    (3) During the period of provisional employment, the individual shall not have super-  
13    visory or disciplinary power or routine contact with patients, residents, or clients without  
14    supervision on-site and immediately available to the individual.

15    Section 7.~~[6.]~~ Individuals Ineligible to be Hired. An employer participating in the KA-  
16    RES program, an agency within the cabinet responsible for conducting inspections of  
17    any employer, or a state-owned or operated health facility shall not employ, contract  
18    with, or permit to work as an employee any applicant that submits to a background  
19    check if one (1) or more of the following are met:

20    (1) The applicant refuses to provide photo identification or complete the Disclo-  
21    tures~~[Disclosure]~~ Form or Waiver Agreement and Statement~~[Consent and Release]~~  
22    Form required by Section 5~~[4]~~(1)~~[(a) and]~~ (b) and (c) of this administrative regulation;

23    (2) The applicant is found on a registry as defined by Section 1~~(9)~~ ~~[(8)]~~ of this admin-

1     istrative regulation;

2         (3) The applicant's professional license is not in good standing, if applicable;

3         (4) The applicant fails to submit his or her fingerprints at an authorized collection site  
4     within thirty (30) calendar days of payment submitted pursuant to Section 5[4](3) of this  
5     administrative regulation; or

6         (5) Upon completion of the initial criminal background check for an applicant, or sub-  
7     sequent to the initial fingerprint check on a current employee, the employer, cabinet  
8     agency, or state-owned or operated health facility receives notice from the cabinet that  
9     the applicant is not eligible ~~[clear]~~ for hire based on a cabinet determination that the in-  
10    dividual has been found to have a disqualifying offense~~;~~ or

11     ~~(6) Final disposition of a criminal charge related to a disqualifying offense is not pro-~~  
12    ~~vided to the cabinet within sixty (60) days of fingerprint submission].~~

13     Section 8.[7.] Notice of a Disqualifying Offense and Appeals. (1) The cabinet shall  
14    notify each applicant or current employee determined to have a disqualifying offense.

15         (2) In addition to the cabinet's notification required by subsection (1) of this section,  
16    an employer that receives notice from the cabinet that an individual has been deter-  
17    mined to have a disqualifying offense shall notify the individual of the cabinet's determi-  
18    nation within three (3) business days of receipt of the notice.

19         (3) An applicant or current employee who receives notice of a disqualifying offense  
20    may:

21         (a) Challenge the accuracy of the cabinet's determination regarding a disqualifying  
22     offense by submitting a written request for informal review, including any information the  
23     applicant wishes to be considered, to the Office of Inspector General, Cabinet for Health



1 and Family Services, 275 East Main Street, 5E-A, Frankfort, Kentucky 40621, within ten  
2 (10) calendar days of the date of notice of the disqualifying offense; or

3 (b) Request a rehabilitation review pursuant to Section 10(2) of this administrative  
4 regulation.

5 (4) Upon completion of an informal review if requested pursuant to subsection (3)(a)  
6 of this section, the Office of Inspector General shall within ten (10) calendar days of re-  
7 ceipt of the request provide written notice to the applicant or employee of the cabinet's  
8 decision to uphold or rescind the notice of the disqualifying offense.

9 ~~(5) [Request a rehabilitation review pursuant to Section 9 of this administrative regu-~~  
10 ~~lation; or (b) Challenge the accuracy of the cabinet's determination regarding a disquali-~~  
11 ~~fying offense by submitting a written request to the cabinet for an informal review of the~~  
12 ~~cabinet's determination or file an appeal under KRS Chapter 13B within ten (10) days of~~  
13 ~~the date of the notice of the disqualifying offense.] An applicant or current employee~~  
14 may appeal the results of an informal review or a rehabilitation review conducted in ac-  
15 cordance with Section 10 of this administrative regulation by submitting a written re-  
16 quest for an administrative hearing within thirty (30) calendar days from the date [to the  
17 ~~cabinet for appeal under KRS Chapter 13B within five (5) days]~~ of notice of the decision  
18 from an informal review or rehabilitation review.

19 (6)(a) A written request for an administrative hearing shall be mailed to the Office of  
20 Ombudsman, Cabinet for Health and Family Services, 275 East Main Street, 1E-B,  
21 Frankfort, Kentucky 40621.

22 (b) The administrative hearing shall be held no later than forty-five (45) calendar days  
23 from the date that the request is received by the Office of Ombudsman unless the appli-

1 cant or employee agrees to a later date.

2 (c) The issues considered at the hearing shall be limited to the issues directly raised  
3 and considered during the informal review or rehabilitation review.

4 (d) The administrative hearing shall be conducted pursuant to KRS 13B.080.

5 (e) The hearing officer shall issue a recommended order pursuant to KRS 13B.110.

6 (f) The secretary or designee shall issue a final order pursuant to KRS 13B.120.

7 (7) [(4)] If an applicant or current employee wishes to ~~[obtain information concerning~~  
8 ~~the disqualifying offense or]~~ challenge the accuracy of a criminal background check, the  
9 cabinet shall refer the individual to the appropriate state or federal law enforcement  
10 agency.

11 (8) [(5)] If an applicant or current employee challenges the finding that he or she is the  
12 true subject of the results from a registry check, the cabinet shall refer the individual to  
13 the agency responsible for maintaining the registry.

14 Section 9. ~~[8.]~~ Termination of ~~an~~ a Provisional Employee Upon Receipt of Notice of a  
15 Disqualifying Offense. (1) If a provisional employee or current employee has not re-  
16 quested an informal review or a rehabilitation review ~~[an appeal]~~ pursuant to Section  
17 8(3) [7(3)(b)] of this administrative regulation, the employer shall:

18 (a) Terminate the employee no later than fifteen (15) calendar ~~[six (6) business]~~ days  
19 after receipt of notice of the disqualifying offense; and

20 (b) Use the KARES system to provide electronic notification ~~[Submit a written attesta-~~  
21 ~~tion statement]~~ to the cabinet affirming the employee's dismissal within three (3) busi-  
22 ness days of termination.

23 (2)(a) If a provisional employee or current employee requests an informal review or a

rehabilitation review~~[an appeal]~~ pursuant to Section 8(3)~~[7(3)(b)]~~ of this administrative regulation, the employer:

1. May retain the employee pending resolution of the employee's informal review or rehabilitation review; and

2. Shall ensure that ~~[appeal under the following conditions: (a)]~~ the employee is:

a. [shall be] Subject to direct, on-site supervision;~~[,]~~ or

b. Reassigned to duties that do not involve one-on-one contact with a resident, patient, or client of the employer.

(b) An employer shall terminate the employee if the:

1. Informal review upholds the cabinet's determination of a disqualifying offense or the rehabilitation review committee does not grant a waiver; and

2. The employee does not request an administrative hearing in accordance with Section 8(5) of this administrative regulation, in which case the employer shall terminate the employee no later than the thirty-first calendar day following written notice of the results of the informal review or rehabilitation review.

(c) If an employee requests an administrative hearing to appeal the decision from an informal review or rehabilitation review, the employer:

1. May retain the employee pending resolution of the appeal if the employee:

a. Remains subject to direct, on-site supervision; or

b. Is reassigned to duties that do not involve one-on-one contact with a resident, patient, or client; and

2. Shall terminate the employee as soon as practicable upon issuance of a final order if the employee does not prevail.

1 (d) Using the KARES system, the employer shall provide electronic notification to the  
2 cabinet affirming the individual's dismissal within three (3) business days of termination.  
3 ~~[(b) The employer shall inform the employee that termination shall be immediate if the~~  
4 ~~informal review upholds the cabinet's determination regarding a disqualifying offense, or~~  
5 ~~the employee does not prevail in an appeal requested pursuant to Section 7(3)(b) of this~~  
6 ~~administrative regulation; (c) The employer shall immediately terminate an employee if~~  
7 ~~the informal review upholds the accuracy of the cabinet's determination regarding a dis-~~  
8 ~~qualifying offense or the employee does not prevail in an appeal requested pursuant to~~  
9 ~~Section 7(3)(b) of this administrative regulation upon completion of the appeal; and (d)~~  
10 ~~the employer shall submit a written attestation statement to the cabinet affirming the in-~~  
11 ~~dividual's dismissal within three (3) business days of termination.]~~

12 Section 10.[9.] Rehabilitation Review. (1)(a) An applicant or employee found~~on the~~  
13 ~~child abuse and neglect central registry maintained pursuant to 922 KAR 1:470, or~~  
14 ~~found]~~ to have a disqualifying offense upon completion of the criminal background  
15 check shall be eligible for consideration of rehabilitation under an independent review  
16 process.

17 (b) Consideration of a disqualifying offense under the rehabilitation review process  
18 described in this section shall not apply to:

19 1. A disqualifying felony offense that occurred less than ten (10) ~~[seven (7)]~~ years  
20 prior to the date of the criminal background check;

21 2. A disqualifying misdemeanor offense related to assault, domestic violence, theft,  
22 fraud, or possessing or trafficking in a controlled substance that occurred less than sev-  
23 en (7) years prior to the date of the criminal background check;

1     3. Any disqualifying felony or misdemeanor offense ~~[A criminal conviction]~~ related to  
2     abuse, neglect, or exploitation of an adult defined by KRS 209.020(4) or child, or a sex-  
3     ual offense;

4     ~~4.[3-]~~ Registration as a sex offender under federal law or under the law of any state;  
5     or

6     5. Any person who is a violent offender as defined by Section 1(11) of this adminis-  
7     trative regulation. ~~[4. A conviction for a violent crime.]~~

8     (2)(a) An applicant or employee may submit a written request for a rehabilitation re-  
9     view to the cabinet no later than fourteen (14) calendar days from the date of the notice  
10    of the cabinet's determination issued pursuant to Section ~~8[7]~~(1) of this administrative  
11    regulation regarding a~~[finding on the child abuse and neglect central registry or]~~ deter-  
12    mination of a disqualifying offense.

13    (b) If an applicant or employee requests a rehabilitation review, the employee may be  
14    retained on staff and shall be subject to termination in accordance with Section 9(2) of  
15    this administrative regulation.

16    (3) The request for a rehabilitation review shall include the following information:

17    (a) A written explanation of each~~[finding on the child abuse and neglect central regis-~~  
18    ~~try or each]~~ disqualifying offense, including:

19    1. A description of the events related to the~~[registry finding or]~~ disqualifying offense;  
20    2. The number of years since the occurrence of the~~[registry finding or]~~ disqualifying  
21    offense;

22    ~~3.[The identification of any other individuals involved in the offense; 4.]~~ The age of  
23    the offender at the time of the~~[registry finding or]~~ disqualifying offense; and

- 1     ~~4.~~<sup>5.</sup> Any other circumstances surrounding the~~[registry finding or]~~ offense;
- 2     (b) Official documentation showing that all fines, including court-imposed fines or res-
- 3 titution, have been paid or documentation showing adherence to a payment schedule, if
- 4 applicable;
- 5     (c) The date probation or parole was satisfactorily completed, if applicable; and
- 6     (d) Employment and character references, including any other evidence demonstrat-
- 7 ing the ability of the individual to perform the employment responsibilities and duties
- 8 competently.
- 9     (4) A rehabilitation review shall be conducted by a committee of three (3) employees
- 10 of the cabinet, none of whom:
- 11     (a) Is an employee of the Office of Inspector General; or
- 12     (b) Was responsible for determining~~[each of whom was not responsible for determin-~~
- 13 ~~ing: (a) The finding of child abuse or neglect that placed the individual on the central~~
- 14 ~~registry; or (b)]~~ that the individual has a disqualifying offense.
- 15     (5) The committee shall consider the information required under subsection (3) of this
- 16 section, and shall also consider mitigating circumstances including:
- 17     (a) The amount of time that has elapsed since the~~[child abuse and neglect central~~
- 18 ~~registry finding or]~~ disqualifying offense~~[, which shall not be less than seven (7) years in~~
- 19 ~~the case of a disqualifying offense];~~
- 20     (b) The lack of a relationship between the~~[registry finding or]~~ disqualifying offense
- 21 and the position for which the individual has applied; and
- 22     (c) Evidence that the applicant has pursued or achieved rehabilitation with regard to
- 23 the~~[registry finding or]~~ disqualifying offense. ~~[The committee shall make a recommenda-~~

tion to the secretary or designee, who shall be responsible for making the final decision.]

(6) [The secretary or designee may grant a waiver from the prohibition against employment of an applicant with a child abuse and neglect finding or a disqualifying offense upon consideration of the information required under subsection (3) of this section and the committee's recommendation of subsection (5) of this section. (7)] No later than thirty (30) calendar days from receipt of the written request for the rehabilitation review, the Office of Inspector General [secretary or designee] shall send the committee's [a written] determination on the rehabilitation waiver to the applicant.

(7) [(8)] The decision of the committee [secretary or designee pursuant to subsection (7) of this section] shall be subject to appeal in accordance with Section 8(5) and (6) of this administrative regulation[under KRS Chapter 13B].

(8) [(9)] An individual with a finding on the child abuse and neglect central registry or a disqualifying offense shall not be employed by an employer until the employer receives notification from the cabinet that the individual has been granted a waiver. (10)] An employer is not obligated to employ or offer employment to an individual who is granted a waiver pursuant to this section.

Section 11.[(40)] Pardons and Expungement. An applicant who has received a pardon for a disqualifying offense or has had the record expunged may be employed.

Section 12.[(44)] Status of Employment. An employer participating in KARES shall maintain the employment status of each employee who has submitted to a fingerprint-supported criminal background check by reporting the status using the KARES web-based system.

1 Section 13.~~[12.]~~ Kentucky National Background Check~~[Applicant Registry and Em-~~  
2 ~~ployment Screening]~~ Fund. (1)(a) The cabinet shall establish a trust and agency fund  
3 called the Kentucky National Background Check~~[Applicant Registry and Employment~~  
4 ~~Screening]~~ fund to be administered by the Finance and Administration Cabinet.

5 (b) The fund shall be funded with moneys collected under Section 5~~[4]~~(3) of this ad-  
6 ministrative regulation.

7 (2) Moneys in the fund shall be used solely to operate the Kentucky National Back-  
8 ground Check~~[KARES]~~ program.

9 Section 14. ~~[13.]~~ Incorporation by Reference. (1) The following material is incorpo-  
10 rated by reference:

11 (a) OIG 1:190-1, "Disclosures to be Provided to and Signed by Applicant for Em-  
12 ployment or Licensure", September 2016;

13 (b) OIG 1:190-2, "Waiver Agreement and Statement", September 2016;~~[OIG 1:190-A,~~  
14 ~~"Agreement to Participate in the KARES Program", May 2013;~~

15 ~~(b) OIG 1:190-B, "Disclosure Form", May 2013;~~

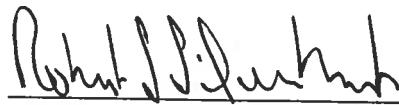
16 ~~(c) OIG 1:190-C, "Consent and Release Form", May 2013;]~~ and

17 ~~(c)~~~~(d)~~ OIG 1:190-D, "Live Scan Fingerprinting Form", May 2013.

18 (2) This material may be inspected, copied, or obtained, subject to applicable copy-  
19 right law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky  
20 40621, Monday through Friday, 8 a.m. to 4:30 p.m.



906 KAR 1:190

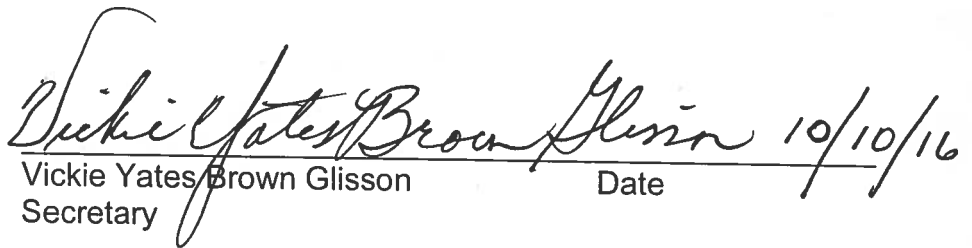


Robert S. Silverthorn, Jr.  
Inspector General  
Office of Inspector General

9.7.16

Date

APPROVED:



Vickie Yates Brown Glisson  
Secretary

Date

906 KAR 1:190

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD**

A public hearing on this administrative regulation shall, if requested, be held on November 21, 2016, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by November 14, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until November 30, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

**CONTACT PERSON:** Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, (502) 564-7905, Fax: (502) 564-7573, email address: [tricia.orme@ky.gov](mailto:tricia.orme@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 906 KAR 1:190  
Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst  
Office of Inspector General  
502-564-2888  
Email: stephanie.brammer@ky.gov

Tricia Orme  
Office of Legal Services  
e-mail: tricia.orme@ky.gov  
Phone: 502-564-7905

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures and requirements for implementation of the Kentucky National Background Check Program (NBCP). Under Kentucky's NBCP, a secure, web-based application called the KARES system is used to facilitate abuse registry and fingerprint-supported State and FBI criminal background checks for authorized users.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures and requirements for implementation of Kentucky's NBCP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: As stated in the Necessity, Function, and Conformity paragraph of this administrative regulation, 42 U.S.C. 1320a-7I directs the secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. KRS 216.789, KRS 216.787, and KRS 216.712 authorize the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities. Therefore, this administrative regulation conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of a comprehensive, Cabinet-administered state and national background check program called the Kentucky NBCP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures and requirements for implementation of Kentucky's NBCP.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds a new Section 3 to authorize implementation of a mechanism for continuous assessment, often referred to as "rap back". The continuous assessment ser-

vice, which is a requirement of the federal NBCP grant, is a process in which notification will be sent by the Kentucky State Police (KSP) to the Cabinet of any criminal activity that occurs after an applicant's initial fingerprint check, thereby reducing the need for duplicative fingerprinting. This amendment further clarifies that the fee charged for facilitating fingerprint checks upon expiration of the federal NBCP grant will be adjusted in an amount not to exceed actual costs. This amendment also clarifies that an applicant or employee may submit a written request for a copy of his or her criminal history report; makes technical changes to the section on appeals under which an applicant or employee may challenge the cabinet's determination of a disqualifying offense; and allows the cabinet to release any record of State criminal history found in the files of the Kentucky centralized criminal history record information system to an employer upon written consent by the prospective or current employee.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary primarily to implement the process for continuous assessment as well as make revisions as described in (2)(a).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of Kentucky's NBCP.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing procedures and requirements to facilitate fingerprint-supported state and national background checks requested under Kentucky's NBCP.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment impacts authorized users of the KARES system.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: With the exception of using new forms incorporated by reference, authorized users will not be required to take any additional action beyond compliance with the current procedures for requesting fingerprint-supported State and FBI background checks under the KARES system.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Authorized users will not incur additional costs at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will benefit participating employers by reducing the need for duplicative fingerprint checks upon implementation of continuous assessment as employees who remain enrolled in the continuous assessment service will not be subject to additional fingerprint checks if they transfer to another employer using the KARES system. In addition, this amendment will allow an applicant or employee who has submitted to a fingerprint check under the KARES system submit a written request to

the cabinet for a copy of his or her criminal history report. Additionally, employers using the KARES system are currently provided with a "clear for hire" or "not clear for hire" notice upon cabinet review of a prospective or current employee's criminal history results. This amendment will allow the cabinet to release any record of State criminal history found in the files of the Kentucky centralized criminal history record information system to the employer upon the written consent of the prospective or current employee.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation is funded by monies from the NBCP grant until May 2017.

(b) On a continuing basis: Upon depletion of grant monies currently used to support program operations, Kentucky's NBCP will be sustained by background check fees not to exceed actual costs. After the federal NBCP grant expires in May 2017, administering the program on an ongoing basis is estimated to cost about \$4,183,076 annually. It is important to note that 85% of the program's costs are passed through the Office of Inspector General to:

- KSP and the FBI for the actual cost of processing criminal background checks and continuous assessment;
- The Office of Employment and Training and the Department for Community Based Services for rolling applicant fingerprints in designated field offices; and
- Kentucky Interactive for the payment transaction fee.

The Office of Inspector General's annual costs, which are estimated at approximately \$647,875, will cover personnel including IT support, maintenance and repairs on equipment, and other administrative costs necessary to maintain Kentucky's NBCP.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal NBCP grant funds are currently used to implement this administrative regulation. Upon expiration of the grant, continued funding to support Kentucky's NBCP will be from background check fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The current cost of the fingerprint-supported State and FBI criminal background checks is subsidized by NBCP grant monies at \$20 per fingerprint check. Upon expiration of the grant, the Cabinet anticipates that the cost of the fingerprint check will increase to \$58.99 per check to support program operations on a continuing basis. It is important to note that if an applicant has been fingerprinted under Kentucky's NBCP and is enrolled in the continuous assessment service implemented in accordance with this amendment, the applicant is not subject to additional fingerprinting. Instead, an employer participating in Kentucky's NBCP may query the KARES system for a \$20 fee to view the applicant's fitness determination and confirm the applicant is eligible for hire, thereby avoiding the cost of a new fingerprint check.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes fees necessary to sustain program operations.

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 906 KAR 1:190

Contact Person: Stephanie Brammer-Barnes, (502) 564-2888

Email: [stephanie.brammer@ky.gov](mailto:stephanie.brammer@ky.gov)

Tricia Orme

Office of Legal Services

e-mail: [tricia.orme@ky.gov](mailto:tricia.orme@ky.gov)

Phone: 502-564-7905

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment impacts authorized users of the KARES system.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 42 U.S.C. 1320a-7l, 42 U.S.C. 5119a(a)(1), KRS 216.712, KRS 216.787, KRS 216.789

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The current fee for a fingerprint-supported State and FBI criminal background check is \$20 for authorized KARES system users. However, upon depletion of NBCP grant funds, the revenue generated in background check fees is intended to support program operations on a continuing basis.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? During subsequent years, revenue will be based on background check fees collected from authorized KARES system users to support program operations on an ongoing basis.

(c) How much will it cost to administer this program for the first year? This administrative regulation is funded by NBCP grant monies until May 2017.

(d) How much will it cost to administer this program for subsequent years? After expiration of the NBCP grant, the cost to administer this program is about \$4,183,076 annually as described in more detail in the regulatory impact analysis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):  
Other Explanation



## FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 906 KAR 1:190  
Agency Contact: Stephanie Brammer-Barnes, (502) 564-2888  
Email: stephanie.brammer@ky.gov

Tricia Orme  
Office of Legal Services  
e-mail: tricia.orme@ky.gov  
Phone: 502-564-7905

1. Federal statute or regulation constituting the federal mandate.

42 U.S.C. 1320 a-7l and 42 U.S.C. 5119a(a)(1)

2. State compliance standards.

KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

KRS 216.789, KRS 216.787, and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities.

3. Minimum or uniform standards contained in the federal mandate.

42 U.S.C. 1320 a-7l directs the Secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. As of this date, Kentucky is one of 26 states to receive a National Background Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Services under 42 U.S.C. 1320 a-7l.

Under 42 U.S.C. 5119a(a)(1), a State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether an individual has been convicted of a crime that bears upon the individual's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

4. Will this administrative regulation impose stricter requirements, or additional or dif-

ferent responsibilities or requirements, than those required by the federal mandate?

This administrative regulation does not impose stricter requirements than those established in federal law.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

COMMONWEALTH OF KENTUCKY  
CABINET FOR HEALTH AND FAMILY SERVICES  
Office of Inspector General

906 KAR 1:190, Kentucky National Background Check Program.

Summary of Material Incorporated by Reference

1. The OIG 1:190-1, "Disclosures to be Provided to and Signed by Applicant for Employment or Licensure", September 2016, is a form given by a KARES system user to an applicant prior to initiating a background check under the Kentucky NBCP. This form, which must be signed by the applicant, serves as notice of the procedures for securing a fingerprint-supported State and FBI criminal background check as well as the applicant's right to request and inspect his or her criminal history record, and to request correction of any inaccurate information. This form contains one (1) page.
2. The OIG 1:190-2, "Waiver Agreement and Statement", September 2016, is a form given by a KARES system user to an applicant prior to initiating a background check under the Kentucky NBCP. This form, which must be signed by the applicant, serves as authorization by the applicant for submission of his or her fingerprints for completion of a State and FBI criminal background check. This form also provides the applicant with an opportunity to self-disclose any criminal offenses prior to the background check as well as describes the appeals process. In addition, this form authorizes the cabinet to release any record of State criminal history found in the files of the Kentucky centralized criminal history record information system to employer upon the written consent of a prospective or current employee. This form contains four (4) pages.

The total number of pages for new forms incorporated by reference in this administrative regulation is five (5) pages.