

Area Agency on Aging 1-B
Debarment, Suspension, Exclusion, Disqualification
&
Background Check Guidance
MDHHS Bureau of Aging, Community Living, and Supports (ACLS) Contractor

Debarment, Suspension, Exclusion, or Disqualification

- Prior to hire and monthly thereafter, vendors must conduct a review of debarment status in the following databases:
 - OIG List of Excluded Individuals <https://exclusions.oig.hhs.gov/>
 - System for Award Management (SAM) <https://sam.gov/content/home>
 - MDHHS Sanctioned Provider List <https://www.michigan.gov/mdhhs/doing-business/providers/providers/billingreimbursement/list-of-sanctioned-providers>

Criminal Background Screening

- Contractors must conduct criminal background checks in the following databases:
 - ICHAT: <https://apps.michigan.gov/>
 - Michigan Public Sex Offender Registry: <https://mspsor.com/>
 - National Sex Offender Registry: <https://www.nsopw.gov/>
- Criminal background checks for new hires and volunteers must be completed prior to the individual working directly with participants or having access to a participant's personal property or participant protected health information or personally identifiable information.
- Contractors are required to conduct or cause to be conducted criminal background checks that must be completed no later than 30 days after every third anniversary of the date of hire/volunteer.
- Contractors are required to conduct or cause to be conducted a Central Registry (CR) check for new employee, employee, subcontractor, subcontractor employee, or volunteer who works directly with children. Contractors are to maintain a policy that requires disclosure of any criminal conviction, pending felony charges or placement on the Central Registry as a perpetrator within 10 days.

Excluding Convictions

Contractor workforce members, including volunteers, are not permitted to have in-person participant contact, in-home participant contact, access to a participant's personal property, or access to confidential participant information if the background check identifies an excludable conviction. Review this document carefully as there has been changes to the exclusion requirements made by the State of Michigan.

Mandatory Exclusions:

1. Federal or state **felony conviction** related to one or more of the following crimes:

- a. Crimes against a “vulnerable adult” as set forth in chapter XXA of the Michigan penal code, 1937 PA 382, MCL 750.145m to 750.145r.
- b. Violent crimes including, but not limited to, murder, manslaughter, kidnapping, arson, assault (or threat thereof), battery (or threat thereof), and domestic violence.
- c. Financial crimes including, but not limited to, fraud, forgery, counterfeiting, embezzlement, and tax evasion.
- d. Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, or prostitution.
- e. Cruelty or torture.
- f. Abuse or neglect.
- g. Felony involving the use of a firearm or dangerous weapon.
- h. Result in death or serious impairment of body function.
- i. Involve the intent to cause death or serious impairment of body function.

Felony Conviction:

- 1. The results of the criminal background check show that the person has **any federal or state felony conviction** in the preceding 10 years from the date of the background check, including but not limited to:
 - a. Crimes involving state, federal or local government assistance programs.
 - b. Theft crimes including, but not limited to, larceny, burglary, robbery, extortions, false pretenses, false representation, retail fraud and conversion.
 - c. Drug crimes including, but not limited to, possession, delivery, and manufacturing.

Misdemeanor Conviction:

- 1. The results of a criminal background check show that the person has **any federal or state misdemeanor conviction** within the preceding 5 years from the date of the background check, including but not limited to:
 - a. Crimes involving state, federal, or local government assistance programs.
 - b. Crimes against a “vulnerable adult” as set forth in chapter XXA of the Michigan Penal code, 1931 PA 328, MCL 750.145m to 750.145r.
 - c. Financial crimes including, but not limited to, fraud, forgery, counterfeiting, embezzlement, and tax evasion.
 - d. Theft crimes including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, retail fraud and conversion.
 - e. Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, and prostitution.
 - f. Drug crimes including, but not limited to, possession, delivery, and manufacturing.
 - g. Cruelty or torture.
 - h. Abuse or neglect.
 - i. Home invasion.
 - j. Assault or battery.
 - k. Misdemeanor involving the use of a firearm, dangerous weapon with the intent to injury, the use of a firearm or dangerous weapon that results in a personal injury, or a

misdemeanor involving the use of force or violence or the threat of the use of force or violence.

If any individual has an Excludable Conviction, that individual will be prohibited from participating in any AAA 1-B federally funded grant programs.

A Criminal Conviction means any one or more of the following:

- a. Judgment of conviction has been entered against the individual or entity by a federal, state, tribal, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged.
- b. A finding of guilt against the individual or entity by a federal, state, tribal or local court.
- c. A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, tribal or local court.
- d. An individual or entity that has entered into participation in a first offender, deferred adjunction, or other arrangement or program where judgment of conviction has been withheld.

In the event that a vendor, including its employees, is indicted or otherwise criminally charged by a government entity (federal, state, or local) with commission of any Excludable Conviction, Vendor will promptly notify AAA 1-B.

A Note on Background Checks and State of Michigan Court Rules

The Michigan Supreme Court approved revisions of Court rules to protect Personally Identifiable Information (PII). PII is defined as date of birth, Social Security number, driver's license number, passport number, or financial information. The Michigan Supreme Court published for comment and then adopted various rule revisions that prohibit filers from including PII on court forms.

On June 30, 2021, the Michigan Supreme Court issued an order that delays implementation of their rule which would make dates of birth unavailable. The implementation date has been changed from July 1, 2021, until January 1, 2022. At this point no additional guidance can be given but AAA 1-B will communicate any additional information it may receive.