**Award Condition for CVAD subrecipients as they relate to working with minors**

The following award condition applies to subrecipients who receive VOCA, STOP VAWA or SASP funding: determination of suitability required, in advance, for certain individuals who may interact with participating minors. The following provides more clarification about this special condition.

The details of this requirement are printed below and are incorporated into your grant agreement by reference. <https://www.ojp.gov/funding/explore/interact-minors>

## Determination of suitability to interact with participating minors

SCOPE. **This condition applies to an award if it is indicated** -- in the application for the award (as approved by DOJ) (or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute **-- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.**

Clarification: this condition is not agency wide. It is position based and only if the target demographic for services is minors. If the scope of work for your CVAD funded project is to serve adults, this special condition does not apply.

The recipient, and any subrecipient at any tier, must **make determinations of suitability before certain individuals may interact with participating minors**. This requirement applies regardless of an individual's employment status.

Clarification: This condition applies to anyone who might interact with minors, not just employees.

**Award Condition:**

**Determination of suitability required, in advance, for certain individuals who may interact with participating minors**

1**. Advance determination regarding suitability.** CVAD subrecipients may not permit any **covered individual** to interact with any participating minor in the course **of activities under the award**, unless the subrecipient first has made a written determination of the suitability of that individual to interact with participating minors, based on current and appropriate information as described in paragraph 3.E., and taking into account the factors and considerations described in paragraph 4.

2. **Updates and reexaminations**

A. The subrecipient must, at least **every five years**, (1) update the searches described in paragraph 3.E.1. and (2), reexamine the covered individual's suitability determination in light of those search results, and, if appropriate, modify or withdraw that determination.

B. The subrecipient also must reexamine a covered individual's suitability determination upon learning of information that reasonably may suggest unsuitability and, if appropriate, modify or withdraw that determination.

3. **Definitions**

A. **Covered individual** means any individual (other than a participating minor, as defined in this condition, or a **client of the subrecipient**) who is expected, or reasonably likely, to interact with any participating minor (other than the individual's own minor children). A covered individual need not have any particular employment status or legal relationship with the recipient (or subrecipient). Such an individual might be an employee of a recipient, but also might be, for example, a consultant, contractor, employee of a contractor, trainee, volunteer, or teacher.  
  
Clarification: Participating minors, the parents of the participating minors and other clients the subrecipient are serving are not considered covered individuals and therefore do not need a determination of suitability. Pay attention to the words **expected or reasonably likely or expected to interact with minors** to carry out award activities. Think about individual and their job duties, and what they are doing in the course of carrying out their award duties, include volunteers, trainees and consultants. Determine if these folks are reasonably expected to interact with minors.

B. **Participating minor** All individuals under 18 years of age within the set of individuals described in the scope section of this **condition as it appears on the award document are participating minors.**

Clarification: A subrecipient has multiple programs funded with many different sources of funding. A participating minor is a person under 18 who is being served with STOP VAWA, SASP or VOCA funds, or with funds used as match. If an agency has a program to serve minors, which is funded 100% from resources other than STOP VAWA, SASP or VOCA, then for these purposes those participants are not considered participating minors.

C. **Interaction** includes physical contact, oral and written communication, and the transmission of images and sound, and may be in person or by electronic, or similar means.

Interaction does not include--

(1) **brief contact** that is both unexpected by the subrecipient and unintentional on the part of the **covered individual** -- such as might occur when a postal carrier delivers mail to an administrative office.

(2) **personally-accompanied contact --** that is, infrequent or occasional contact (for example, by someone who comes to make a presentation) in the presence of an **accompanying adult,** pursuant to written policies and procedures of the subrecipient that are designed to ensure that -- throughout the contact -- an **appropriate adult** who has been determined to be suitable pursuant to this condition will closely and personally accompany, and remain continuously within view and earshot of, the **covered individual**.

Clarification: The definition of interaction is broad. Organizations needs to think about the actual activities they are carrying out. Subrecipients do not have to make a written determination of the suitability of an individual who has infrequent or occasional contact with participating minors. Someone who comes in to do a presentation and is accompanied by a person who is suitable does not need to be screened. If someone comes in many times to do a presentation, then they are likely needing to be screened. Neither a chaperone of a minor nor the minor’s parent are qualified to be the personally accompanied contact because they do not have to be screened. Personally accompanied means the speaker, not the minor, has to be accompanied by a screened person. **There is no rule on the number of interactions that makes something frequent. Subrecipients must have written policies and procedures to address infrequent and occasional contact between adults and participating minors**. These policies and procedures must be designed to ensure that during the contact between the parties, an adult who has been determined to be suitable, pursuant to this condition, will closely and personally accompany, and remain continuously within view and earshot of, the adult participating with the minor. **Additionally, these policies should clarify what infrequent or occasional contact means for their organization or program.**

D. **Activities under the award.** Whether paid for with federal funds from the award, matching funds included in the CVAD approved budget for the award, or program income for the award as defined by the (DOJ) Part 200 Uniform Requirements), activities under the award include both--

(1) activities carried out under the award by the subrecipient; and

(2) actions taken by an entity or individual pursuant to a procurement contract under the award or to a procurement contract under a subaward at any tier.

Clarification: If a subrecipient issues a subaward or a subcontract to another person or organization to complete the activities of the project, those involved with participating minors must be determined to be suitable pursuant to this condition. This applies to hotlines if the hotline is paid with funding from STOP VAWA, SASP or VOCA.

E. **Current and appropriate information (Determining Suitability)**

In addition to information resulting from checks or screening required by applicable federal, state, tribal, or local law, and/or by the subrecipient's written policies and procedures, **current and appropriate information includes the results of all required searches listed below, each of which must be completed no earlier than six months before the determination regarding suitability**.

These are the websites people can use to search sex offender and child abuse websites.

1. Public sex offender and child abuse websites/registries

A search (by current name, and, if applicable, by previous name(s) or aliases), of the pertinent and reasonably- accessible federal, state, and (if applicable) local and tribal sex offender and child abuse websites/public registries, including--

(a) the Dru Sjodin National Sex Offender Public Website (www.nsopw.gov);

(b) the website/public registry for each state (and/or tribe, if applicable) in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and

(c) the website/public registry for each state (and/or tribe, if applicable) in which the individual is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award.

The Iowa Sex Offender Registry website is <https://www.iowasexoffender.gov/>  
Iowa DHS abuse registry is here <https://dhs.iowa.gov/abuse-registry/processing-date>. It appears those searching for names on the registry must first create a login account.

(2) Criminal history registries and similar repositories of criminal history records

For each individual at least 18 years of age who is a covered individual under this award, a **fingerprint search** (or, if the subrecipient documents that a fingerprint search is not legally available, a name-based search, using current and, if applicable, previous names and aliases) -- encompassing at least the time period beginning five calendar years preceding the date of the search request -- of pertinent state (and, if applicable, local and tribal) criminal history registries or similar repositories, including--

(a) the criminal history registry for each state in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and

(b) the criminal history registry for each state in which he or she is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award.

In Iowa subrecipients can request an Iowa history criminal check by following the instructions on the Iowa Division of Criminal Investigation’s website <https://dps.iowa.gov/divisions/criminal-investigation/criminal-history/record-check-forms>

As of April 2020, the cost for a criminal background check is $15.

In Iowa, subrecipients can find fingerprinting services in Iowa by searching on this website <https://www.applicantservices.com/Ink-Fingerprinting-Locations/Iowa>

The cost of fingerprinting varies depending on location.

Individuals can submit their own fingerprints and request an FBI Identity History Summary Check by following the instructions here <https://www.fbi.gov/services/cjis/identity-history-summary-checks>

Fingerprint check is more reliable than name search check.

Clarifications: The condition does not say anything about international searches – the key is to look at language of condition – the feds are not going to add a new requirement not already in language. You might find some international information with the FBI. An organization can only check the information that is available to them. You should document your search and keep the documentation in the personnel file.

No contact with minors until screening is done. Checks need to be done every 5 years or if there is something that comes up that makes you think they need screening.

The information you gather from people for screening is sensitive and has to be protected. When CVAD monitors we will monitor procedures and policies.

Grant funds can pay for the costs of screening – award funds can be obligated for these expenses if they are reasonable, necessary and allocated.

**Iowa Code 235D.1**

Iowa Code 235D.1 states: An applicant for employment at a domestic abuse or sexual assault center shall be subject to a national criminal history check through the federal bureau of investigation. The domestic abuse or sexual assault center shall request the criminal history check and shall provide the applicant’s fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the domestic abuse or sexual assault center. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ninety calendar days prior to the date the application is received by the domestic abuse or sexual assault center, the center shall reject and return the application to the applicant. The results of a criminal history check conducted pursuant to this section shall not be considered a public record under chapter 22. For purposes of this section, “domestic abuse or sexual assault center” means a crime victim center as defined in section 915.20A.

915.20A states: “Crime victim center” means any office, institution, agency, or crisis center offering assistance to victims of crime and their families through crisis intervention, accompaniment during medical and legal proceedings, and follow-up counseling.

Volunteers at crime victim centers are subject to National Child Protection Act as Amended by Volunteers of the Children Act (NCPA/VCA).  It would be a similar process through DCI and the charge would be $13/volunteer.

Clarification: For purposes of the determination of suitability to interact with a minor, background checks on volunteers are required in the same manner as employees.

Clarification: Crime victim centers in Iowa are required to have background checks which includes fingerprinting through the FBI done through DCI. As part of this requirement, the crime victim center applies to DCI to be a qualified entity and they are provided instructions on how to do the application and any necessary signed releases by staff as part of the process. The crime victim center provides criteria for which the employee would disqualified to work with children. DCI is restricted by the FBI from providing the background check to the crime victim center; however, they will state if the applicant is qualified or disqualified under the parameters to provide services. The crime victim center is not allowed to release this information to us. The fee is $26.

**4. Factors and considerations in determinations regarding suitability**

In addition to the factors and considerations that must or may be considered under applicable federal, state, tribal, or local law, and under the subrecipient's written policies and procedures, in making a determination regarding suitability, the subrecipient must consider the current and appropriate information described in paragraph 3.E.

In particular, (unless applicable law precludes it), with respect to either an initial determination of suitability or a subsequent reexamination, the recipient (or subrecipient) may not determine that a covered individual is suitable to interact with participating minors in the course of activities under the award if the covered individual--

A. Withholds consent to a criminal history search required by this condition;

B. Knowingly makes (or made) a false statement that affects, or is intended to affect, any search required by this condition;

C. Is listed as a registered sex offender on the Dru Sjodin National Sex Offender Public Website;

D. To the knowledge of the recipient (or subrecipient), has been convicted -- whether as a felony or misdemeanor -- under federal, state, tribal, or local law of any of the following crimes (or any substantially equivalent criminal offense, regardless of the specific words by which it may be identified in law):

(1) sexual or physical abuse, neglect, or endangerment of an individual under the age of 18 at the time of the offense;  
(2) rape/sexual assault, including conspiracy to commit rape/sexual assault;  
(3) sexual exploitation, such as through child pornography or sex trafficking;  
(4) kidnapping;  
(5) voyeurism; or

E. Is determined by a federal, state, tribal, or local government agency not to be suitable.

Clarification: A subrecipients policies may be more restrictive when determining suitability. If a subrecipient learns a governmental agency has deemed a covered individual not suitable, then the subrecipient must also deem the covered individual as not suitable.

5. **Administration; rule of construction**

A. The requirements of this condition are among those that must be included in any subaward (at any tier), and **must be monitored.** They apply as of the date of acceptance of this award, and throughout the remainder of the period of performance.

B. The recipient is to contact CVAD instead of the DOJ awarding agency with any questions regarding the requirements of this condition and **must not** allow a covered individual to interact with a participating minor until such questions are answered.

C. Award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition, provided that such funds would not supplant non-federal funds that would otherwise be available for such costs.

D. Nothing in this condition shall be understood to authorize or require any subrecipient at any tier, or any person or other entity, to violate any federal, state, tribal, or local law, including any applicable civil rights or nondiscrimination law.

**Working with Minors in Iowa**

Victim advocates can provide **immediate and short-term services to minors** **without the parent's consent**. Victim Service agencies need to define what "short term" means to their agency or program (i.e. 8, 6, 10 advocacy sessions- whatever your agency decides is short term)., write it in policy, and follow that policy with all minors. After that, if the minor still needs additional services, you would need parental consent. Minors have the right to all services that adults receive, in an age and culturally appropriate way.

Victim Counselors are not mandatory reporters per Iowa Code 232.69 and should not be reporting suspected child abuse. Even if agencies employee handbooks say they are mandatory reporters, DHS states that if a person is not listed in Iowa Code 232.69 as a mandatory reporter, they are not *legally* considered mandatory reporters.  <https://www.legis.iowa.gov/docs/code/232.69.pdf>.

Section 3 of VAWA, 34 USC §12291(b)(2) and 28 CFR §94.115 of VOCA clarify that if a minor is able to receive services without parental consent then they can sign their own releases of information. If the minor needs parental consent to receive services, then BOTH the parent and child should sign the release of information form. If they are too young to sign/ if they are unable to sign, they should be informed, in an age-appropriate way, that the parent/guardian is signing papers to allow you to talk to others in the community. If the child is unable to sign the form, in place of the child’s signature, the advocate should note the age of the child, the fact that the release was explained to the child, and the date.

For more information about working with minors, contact Iowa Coalition Against Sexual Assault, Iowa Coalition for Collective Change or Iowa Coalition Against Domestic Violence.