Background checks must be conducted for every new hire; and any Independent Contractor who has direct contact with individuals served. The background checks include agency required criminal background checks, sanction screening, pre-employment drug screening, business references as required by Devereux, and a Motor Vehicle driving history check for employees required to operate a vehicle or transport individuals served while conducting Devereux business. In accordance with state and federal law, and internal and external regulatory and agency requirements, Center Human Resources department personnel must review all selected applicants, new hires, and Independent Contractors who have contact with individuals served against disqualifying events.

The following list of felonies or misdemeanors convictions, are disqualifying events:

1. Child / Elder Abuse, incest, endangering the welfare of children, corruption of minors, exploitation of children or dependent adults, or involving children in performance of, the production of, or the dissemination of obscene or sexual materials.
2. Conviction for acts of violence, including but not limited to, sexual offenses, including sexual, involuntary deviate or indecent assault or rape; kidnapping; aggravated assault and battery; manslaughter; murder; and criminal homicide. Also disallowed are convictions of a violent nature that include robbery, arson, and/or the commission of a crime involving a handgun or weapon.
3. Felony drug convictions including the sale / distribution of, manufacturing of, or possession of controlled or illegal substances with the intent to sell. A felony conviction for driving under the influence of drugs or alcohol when less than three (3) years have elapsed since the conviction are disqualifying events for any role that requires the party to operate a vehicle or transport individuals served while conducting Devereux business.
4. Burglary, theft, or forgery, when less than five (5) years from the date of application for employment have elapsed since the conviction.
5. A felony conviction for job-related offenses that resulted in incarceration when less than five (5) years from the date of application for employment have elapsed since release or termination from parole or probation, whichever last occurred.
6. A misdemeanor conviction for job-related offenses that resulted in incarceration when less than three (3) years from the date of application for employment have elapsed since release or termination from parole or probation, whichever last occurred.
There is not an appeal process for the disqualifying events or time requirements outlined above.

In addition to an actual conviction, “conviction” shall include arrest, charge, and sentencing for a crime where:

1. A plea of nolo contendere was entered to the charge;

2. First offender treatment without adjudication of guilt pursuant to the charge was granted; or,

3. Adjudication or sentence was otherwise withheld or not entered on the charge.

Pending Criminal Charges

1. An applicant or Independent Contractor with a pending criminal charge may only be considered for a position if such charges are not job related, or after the criminal charges are determined to be unfounded.

2. Current employees and Independent Contractors are required to immediately report pending criminal charges for felonies or misdemeanors in writing, to their highest level Center Human Resources representative. Employees must advise Human Resources department personnel in writing regarding the status, and final disposition of the case. If an employee or Independent Contractor is charged with an offense that could potentially affect the safety or security of another employee, individuals served or a facility, Human Resources department personnel shall conduct an internal investigation to determine the facts of the case, and to decide whether Administrative Leave, suspension without pay, or termination of employment or termination of the Independent Contractor agreement is appropriate. Failure to report and to notify Human Resources of a pending criminal charge, or the disposition of the charge will result in disciplinary action up to and including dismissal from employment, or the termination of the Independent Contractor agreement.

3. In the event an applicant, new hire, or Independent Contractor is denied employment or continued employment due to prior convictions or pending criminal charges, Center Human Resources department personnel must document the reason for this denial based on job-relatedness and/or business necessity. Applicants to whom a conditional job offer has been made and accepted must be notified in writing when a job offer is withdrawn due to disqualifying background events. Such documentation must be maintained in accordance with Devereux Policy #542 - Retention / Destruction of Employment Records.

Current Employees and Independent Contractors

Devereux reserves the right to conduct a criminal record investigation on any current employee or Independent Contractor or, unless prohibited by State law. In addition, a rehire must have the same checks completed as a newly hired employee.

Frequency of Background Checks

Post-hire background checks must be done as frequently as mandated by agency requirements or federal and state laws. Post-hire, criminal record, child abuse clearances, and valid driver’s license/driving history checks (provided driving/transportation duties are a job requirement) may be checked in accordance with Center procedure. The Center may elect to conduct such
checks even if not otherwise required, unless prohibited by law. Sanction screening will be conducted in accordance with Devereux Policy # 087 or funding / regulatory requirements. I-9 employment authorization and eligibility for employment verification, and e-Verify must be conducted in accordance federal regulations.

In the event that a criminal history check is not returned prior to the employee beginning employment, and where permitted by State or Center regulatory requirements, a new employee may begin working as long as the employee works under supervision of a current employee. In this case, under no circumstances may the employee work alone with individuals served until the criminal history check(s) have been returned to the Human Resources department personnel.

In the event that the criminal history check has not been returned within an acceptable timeline according to standard practice for the State and / or in accordance with Center Procedure, the employee must be relieved of his/her duties, and placed on unpaid, Administrative Leave until the report(s) is received and reviewed by Human Resources department personnel. The maximum length of time an employee may remain on unpaid Administrative Leave pending receipt of background screening results is dictated by Center procedure; but, should not exceed thirty (30) days. In the event that an extension is indicated, approval from the Executive Director and appropriate Operational Vice President is required.

**Other Disqualifying Events**

There are other events that legally or as general practice, may require a Center to take action to either not hire, continue employment or engage an Independent Contractor, or an otherwise qualified individual. The following list, while not exhaustive, includes other disqualifying events:

- Failure to meet Devereux’s Standards for Hire according to Devereux’s Drug Free Workplace screening procedure.

- Falsifying or providing material misrepresentations on the employment application, credentialing application or volunteer application (including not providing information requested).

- Unsatisfactory employment references.

- Sanction screening match.

- Form I-9 Immigration violation or inability to provide required, related documentation.

- Disqualified in accordance with e-Verify regulations

- Inability to meet the physical requirements, or no longer able to perform the essential functions of a job or role with our without accommodation in accordance with ADA.

- Positive test for communicable diseases.

- History of workplace violence or violation of Devereux’s Workplace Violence policy.
In addition to the above items, Devereux is an employment-at-will employer. Normally, events that would result in termination of employment may include failure to meet Devereux’s Standards of Conduct, conflicts of interest, violations of the Corporate Compliance Program, poor performance, the financial position of Center, changed skill requirements, lack of confidence in an employee or Independent Contractor’s ability to provide services in the best interest of Devereux, change in staffing needs, and/or violations of Devereux’s procedures or policies.

Approved: Carl E. Clark II, President
January 18, 2018