

Information in State statutes and regulations relevant to the National Background Check Program: New Jersey

This document describes what was included as of January 2011 in New Jersey statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. New Jersey has seven relevant statutes and regulations, all of which were used in gathering information for this document, and which are listed below in the State Statutes and Regulations section. Additional statutes in New Jersey (not used for the purposes of this document) require criminal background checks for the licensure or certification of nurse aides, personal care assistants, assisted living administrators, homemaker aides, home health aides, and health care professionals, but certification and licensure is out of the scope of this document.

Key Feature	Description
Specific facility and provider types	While the State does not specifically cover the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), it does cover State institutions for the mentally ill or developmentally disabled.
Registry checks	Not addressed.
Fingerprinting	Applicants for employment with State institutions for the mentally ill or developmentally disabled are fingerprinted.
Rap back	Not addressed.
Provisional employment	Statutes and regulations indicate that the State allows for provisional employment.
Definition of direct patient access employee	New Jersey has neither a definition of direct patient access employee nor general background check requirements for privately operated LTC facilities or providers. However, in New Jersey, background checks are required for all State employees of State institutions for the mentally ill or developmentally disabled, regardless of the employees' access to or contact with patients or recipients of services. All volunteers are required to have background checks. However, there are no State statutes applicable to contractors.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	State statutes and regulations indicate that criminal history background check results expire after two years.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> 1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1)) 2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2)) 3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3)) 4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4)) 	<ol style="list-style-type: none"> 1. Not addressed. 2. Not addressed. 3. Not addressed. 4. Not addressed.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. New Jersey identifies certain disqualifying convictions for employees of State institutions for the mentally ill or developmentally disabled. More information on these disqualifying convictions can be found in Appendix A.</p>
<p>Opportunity to contest accuracy of background check findings</p>	<p>The State provides a way to contest the accuracy of background check findings.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>The State provides a way to remove a hiring prohibition based on rehabilitation factors.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>The State’s process takes into account the following: elapsed time since the disqualifying conviction took place, extenuating circumstances, rehabilitation, and relevance of the conviction to the job in question.</p>
<p>Independence of appeal or review process</p>	<p>The State provides independence of the appeal or review process.</p>

State Statutes and Regulations

Citation	Description
New Jersey Statutes (N.J.S.) § 30:4-3.5	This indicates that State and Federal criminal background checks are required every two years for all employees of State institutions for the mentally ill or developmentally disabled.
N.J.S. § 2C: 11-1	This includes certain relevant definitions (e.g., definitions of the terms “bodily injury,” “severe bodily injury,” and “deadly weapon”).
N.J.S. § 2C: 12-1	This defines assault.
N.J.S. § 2C: 13-1	This defines kidnapping.
N.J.S. § 2C: 14-1	This includes certain relevant definitions (e.g., definitions of the terms “victim,” “severe personal injury,” “mentally incapacitated,” and “coercion”).
N.J.S. § 2C: 15-1	This defines robbery.
N.J.S. § 2C: 24-1	This defines bigamy.

Key

§ - Section

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions for any employee at a State institution for the mentally ill or developmentally disabled are:

- In New Jersey, any crime or disorderly persons offense involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S. § 2C:11-1, N.J.S. § 2C:12-1, N.J.S. § 2C:13-1, N.J.S. § 2C:14-1, or N.J.S. § 2C:15-1 (see State Statutes and Regulations above),
- In New Jersey, any crime or disorderly persons offense against the family, children, or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S. § 2C:24-1 (see State Statutes and Regulations above), and
- In any other State or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described above.