

CF OPERATING PROCEDURE
NO. 60-18

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, August 1, 2010

Personnel

EXEMPTION FROM DISQUALIFICATION

1. Purpose. This operating procedure establishes guidelines for the Department of Children and Families (DCF) and for the Agency for Persons with Disabilities (APD) to process exemption requests for persons disqualified pursuant to Chapter 435, Florida Statutes.
2. Scope. This operating procedure applies to all requests for exemption from disqualification for which the Department or APD is the "employer" or "licensing agency" as defined in section 435.02, Florida Statutes. The Department is responsible for processing such requests as provided in this operating procedure.
3. Authority. Chapter 435, Florida Statutes (F.S.).
4. Definitions. For the purposes of this operating procedure, the following definitions apply:
 - a. "APD" means the Agency for Persons with Disabilities.
 - b. "Applicant" means the person requesting an exemption from disqualification from employment, volunteering, registration, or licensure.
 - c. "Clear and Convincing Evidence" is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt. It means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince the department representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.
 - d. "Department" means the Department of Children and Families.
 - e. "FDLE" means the Florida Department of Law Enforcement.
 - f. "FBI" means the Federal Bureau of Investigation.
 - g. "Verifiable" means that the documentation contains sufficient information to contact the issuing person/entity should any reviewer wish to substantiate the document or obtain additional information.
5. Disqualifying Screenings Results.
 - a. Each Region and Mental Health Treatment Facility shall have a designated Background Screening Coordinator(s) who is responsible for reviewing and determining disqualifying criminal history pursuant to sections 435.04 and 408.809 and/or chapter 393. The Background Screening Coordinator will prepare disqualification letters to employers and employees in response to the results

of the criminal background checks as well as those regarding the results of any requests for exemption regardless of who makes the final decision regarding the granting or denial of the exemption request.

(1) The Background Screening Coordinator will prepare a letter to the employer stating that the applicant is not statutorily qualified for employment but giving no information about the disqualifying event.

(2) If a disqualifying offense is identified for which an exemption is statutorily permitted, the Background Screening Coordinator will prepare a letter to the applicant notifying the applicant of the disqualifying offense and offering the applicant the opportunity to request an exemption from disqualification. The letter shall inform the applicant that if an exemption request is made, the applicant must present clear and convincing evidence that the applicant should be exempted from disqualification from employment.

b. The Regional Background Screening Coordinator is responsible for the coordination of the initial background screening and exemption review document gathering activities for APD. The Background Screening Coordinator will prepare letters to employers and applicants in response to the results of initial criminal background checks as well as those regarding the results of any requests for exemption made to APD.

c. All letters sent to the applicant regarding disqualification from employment, licensure or registration must be sent by certified mail, return receipt requested.

6. Eligibility to Request.

a. An applicant who has received a notice of disqualification or termination from employment based on criteria in sections 435.03 or 435.04, F.S., may apply for an exemption from such disqualification, in writing, if the offense is one for which an exemption may be granted pursuant to s. 435.07, Florida Statutes. The provisions of that section are to be strictly construed when considering a request for exemption from disqualification.

b. The three-year waiting period related to commission of a felony begins after the applicant has completed or been lawfully released from confinement, supervision or sanction for the disqualifying felony.

c. For a disqualifying felony offense committed as a juvenile, an exemption may not be granted until at least three years after the completion of all sanctions for the offense.

d. An individual who has committed a misdemeanor is eligible for consideration for an exemption after the applicant has completed or been lawfully released from confinement, supervision or sanction for the disqualifying offense.

e. An individual that has committed a felony that has since been reclassified and is now considered to be a misdemeanor is eligible to apply for an exemption after the applicant has completed or been lawfully released from confinement, supervision or sanction for the disqualifying offense.

f. An individual designated as a sexual predator, sexual offender or career offender is not eligible for an Exemption from Disqualification, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

7. Exemption Determination.

a. The Department of Children and Families provides administrative support for the initial screenings and the processing of requests for exemptions on behalf of the Agency for Persons with

Disabilities; however, the decision to grant or deny an exemption for applicants seeking an exemption from disqualification from APD for programs administered by APD rests with the Agency for Persons with Disabilities.

b. Any DCF grant or denial of exemption request shall first be recommended by the Supervisor of the Regional or Institutional Background Screening Coordinator from information received by the Background or Institutional Screening Coordinator. The file and recommendation shall then be sent to the Regional Criminal Justice Coordinator for review and action. The Regional Criminal Justice Coordinator shall have the final authority to deny an exemption based on reports and recommendations received from the Background Screening Coordinator's Supervisor. The Regional Criminal Justice Coordinator shall have the authority to make a recommendation to grant an exemption from disqualification request.

c. Any APD grant or denial of exemption request shall be handled as set forth in paragraph 11 below and shall go directly from the Background Screening Coordinator and the Background Screening Coordinator's Supervisor to the Area Administrator for APD for review and determination.

8. Exemption Transferability.

a. If an individual who has been granted an exemption by the Agency for Persons with Disabilities or any other agency applies to the Department for an exemption, the Department shall consider the prior grant of an exemption, but is not bound by any previous exemption pursuant to DCF's obligations to review disqualifications from employment.

b. Exemptions granted by the Department of Children and Families shall be used by all programs within the Department without further review, except that a substance abuse exemption may in accordance with s. 435.07 (2), F.S., be limited to that program only.

9. Exemption Request Requirements.

a. It is the responsibility of the applicant to present clear and convincing evidence that he or she should be exempted from disqualification.

b. In order to be considered for an exemption from disqualification, the applicant must meet the burden of clear and convincing evidence that the applicant should be exempted from disqualification. Evidence which may support a decision to grant an exemption includes, but is not limited to:

(1) Personal reference(s). The person reviewing the request for exemption should consider whether the reference document includes a date, original signature, an indication of how the applicant is known to the writer, the time lapse from the date of the recommendation and the date of the application, and a telephone number for contact, if needed.

(2) Letters from employers or other professionals. The person reviewing the request for exemption should consider whether employer or professional reference letters are provided on business letterhead, are relevant, and provide an original signature, signature date, and telephone number for contact, if needed.

(3) Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.

(4) Evidence of further education or training.

(5) Evidence of community involvement (examples include documentation of involvement in civic organization, volunteer activities, church, etc.).

(6) Evidence of special awards or recognition.

(7) Evidence of military service, including whether such service is documented by Department of Defense Form 214.

(8) Parenting or other caregiver experiences.

c. Each person reviewing the request for exemption should carefully consider whether each evidentiary item provided in support of the request for exemption is verifiable.

d. Other factors to consider when determining whether to grant the exemption include, but are not limited to, the following:

(1) All available criminal history background information, including records, if available, from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, local police or sheriff's offense incident reports and arrest affidavits, pertinent court documents including case disposition and the applicant's plea.

(2) Any information provided by the applicant regarding how he or she became involved in the incident and assurances that such an incident could not recur. Information may include:

(a) Documentation as to the status of any imposed conditions as a result of the applicant's offense or subsequent offenses.

(b) The length of time between the disqualifying event and the request for exemption and any subsequent law violations, whether disqualifying or not.

(c) The severity of the harm or risk of harm to the victim or victims, including the degree of harm caused, any permanent or temporary injuries suffered and restitution made as result of the applicant's actions.

(d) Any other history or circumstances indicating that employment can be continued without risk of harm.

(3) In the case of applicants seeking exemptions from disqualification from employment, licensure or registration for foster care and child care programs **only**, the person reviewing the request for exemption may include the use of any verified abuse reports where the applicant was identified as the person responsible or when the applicant is a subject in three or more abuse reports within a five-year period. The use of verified reports is prohibited for applicants seeking employment, licensure or registration for any other program areas.

10. DCF Exemption Requests. At any time throughout the process described in this paragraph, the office of Regional Counsel should be contacted when it is determined that assistance is needed to determine legal sufficiency or when legal advice is deemed necessary

a. If an applicant requests an exemption which is statutorily permitted, the Background Screening Coordinator shall forward necessary forms to the applicant requesting an exemption review:

(1) A Request for Exemption form;

(2) A Checklist form for Materials Needed for Exemption Consideration;

(3) Employment History form; and,

(4) Directions for Submitting the Exemption Request Packet.

b. After receipt of the complete exemption request package from the applicant, the Background Screening Coordinator will, using due diligence, search available data, including, but not limited to, a review of records, if available, from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, local police or sheriff's offense incident reports, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption. These materials, in addition to the information provided by the applicant, will form the basis for a recommendation as to whether the exemption should be granted.

c. The Background Screening Coordinator shall search the Caretaker Screening Information System (CSIS) to determine prior licensure or other caregiver positions, and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all reasonable evidence is gathered, the Background Screening Coordinator shall consult with the Background Screening Coordinator's Supervisor. Based upon the materials supplied by the applicant and data available to the Background Screening Coordinator, and after consultation with the Background Screening Coordinator's Supervisor, the Coordinator and the Supervisor will recommend whether the exemption should be granted. The standard for granting an exemption will be clear and convincing evidence, as defined in paragraph 9b above, that the applicant should not be disqualified from employment.

e. The exemption request file shall be reviewed by the Regional Legal Counsel's office or the Institution's Legal Counsel's office to determine legal sufficiency.

f. The exemption request file and recommendation of the Background Screening Coordinator and Supervisor will be forwarded to the Criminal Justice Coordinator in the region in which the Background Screening Coordinator is located. The Criminal Justice Coordinator will review the exemption request file and recommendation and make an initial determination whether to grant or deny the exemption.

g. If the Regional Criminal Justice Coordinator determines that the exemption should not be granted, the denial shall be communicated in writing to the applicant and the employer by the Background Screening Coordinator.

h. If the Criminal Justice Coordinator makes a recommendation that the exemption should be granted, the exemption request file and recommendations shall be forwarded to the Regional Director of the region or the Hospital Administrator for any state hospital in which the applicant is seeking employment.

i. The Regional Director of the region or the Hospital Administrator has delegated authority from the agency head to grant or deny the exemption.

j. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file, along with the justification for the decision. The Background Screening Coordinators are responsible for maintaining the exemption files.

k. At no point during the evaluation process shall an evaluator rely on state or federal criminal history reports with an effective date that is more than 60 days old. If the most recent criminal history report, state or federal, is more than 60 days old at the time of review, new criminal history reports must be generated prior to the final decision being made.

l. After an exemption request decision is final, the Background Screener will provide a written response to the applicant as to whether the request is granted or denied. The letter to the applicant

denying the exemption must set forth pertinent facts before the Background Screening Coordinator, the Background Screening Coordinator's Supervisor, the Criminal Justice Coordinator, Regional Director and Hospital Administrator, where appropriate, which were relied on and used in deciding to deny the exemption request. The Background Screening Coordinator will seek assistance of counsel from the Regional Counsel's office as needed in drafting the letter. The letter will also inform the denied applicant of the availability of an administrative review pursuant to Chapter 120, Florida Statutes.

(1) If the exemption is granted, the applicant and the facility or employer shall be notified of the decision by regular mail.

(2) If the request is denied, notification of the decision shall be sent by certified mail, return receipt requested, to the applicant, addressed to the last known address. All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.

(3) A separate letter of denial shall be sent by regular mail to the facility or employer.

m. Notification to the applicant of the decision to grant or deny the exemption shall be made no later than 30 days following the receipt of the complete exemption request package from the applicant, all requested missing documentation from the applicant, or the new criminal history report(s) if required as provided in paragraph k above, whichever is the latest.

11. APD Exemption Requests.

a. If an applicant requests an exemption which is statutorily permitted, the Background Screening Coordinator shall forward necessary forms to the applicant requesting an exemption review (see appendices to this operating procedure for forms):

(1) A Request for Exemption form;

(2) A Checklist form for Materials Needed for Exemption Consideration;

(3) Employment History form; and,

(4) Directions for Submitting the Exemption Request Package.

b. After receipt of the complete exemption request package from the applicant, the Background Screening Coordinator will, using due diligence, search available data, including, but not limited to, a review of records, if available, from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, local police, state attorney, sheriff's offense incident reports and arrest affidavits, and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.

c. The Background Screening Coordinator shall search the Caretaker Screening Information System (CSIS) to determine prior licensure or other caregiver positions, and gather information that may be pertinent to the issue of rehabilitation from the disqualifying offense. The search of CSIS shall include a determination whether the applicant has ever been considered for an exemption prior to the current application, and the results of any previous applications.

d. After all reasonable evidence is gathered during the exemption review, the Background Screening Coordinator shall consult with the Background Screening Coordinator's Supervisor regarding the completeness of the file. When complete, the exemption request file shall be sent to the Area Administrator for APD. The Background Screening Coordinator and the Background Screening

Coordinator's Supervisor will NOT include a recommendation of whether or not the exemption should be granted.

e. The exemption request file shall be reviewed by APD's General Counsel's office to determine legal sufficiency. Such review and determination shall NOT be done by DCF.

f. DCF's Regional Directors and Criminal Justice Coordinators are NOT involved in the APD exemption request review process.

g. If APD determines that the exemption should not be granted, the Background Screening Coordinator shall be informed and the denial shall be communicated in writing to the applicant and the employer by the Background Screening Coordinator.

h. If APD determines that the exemption should be granted, the Background Screening Coordinator shall be informed and the exemption request file and determination documentation returned to the Background Screening Coordinator for processing.

i. Whether the exemption is granted or denied, the decision must be documented in the applicant's exemption request file, along with the justification for the decision. The Background Screening Coordinators are responsible for maintaining the exemption files.

j. At no point during the evaluation process shall an evaluator rely on state or federal criminal history reports with an effective date that is more than 60 days old. If the most recent criminal history report, state or federal, is more than 60 days old at the time of review, new criminal history reports must be generated prior to the final decision being made.

k. After an exemption request decision is final, the Background Screening Coordinator will provide a written response to the applicant as to whether the request is granted or denied. The letter to the applicant denying the exemption must set forth pertinent facts which were relied on and used by APD in deciding to deny the exemption request. APD will be responsible for drafting the notice letters to the applicant.

(1) If the exemption is granted, the applicant and the facility or employer shall be notified of the decision by regular mail.

(2) If the request is denied, notification of the decision shall be sent by certified mail, return receipt requested, to the applicant, addressed to the last known address. All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.

(3) A letter of denial shall be sent by regular mail to the facility or employer.

l. Notification to the applicant of the decision to grant or deny the exemption shall be made no later than 30 days following the receipt of the complete exemption request package from the applicant, all requested missing documentation from the applicant, or the new criminal history report(s) if required as provided in paragraph j above whichever is the latest.

12. Exemption Duration. If an exemption is granted, there shall be no limitation in the duration of the exemption except as provided by statute.

13. Subsequent Disqualification. If an employee for whom an exemption has been granted is subsequently found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any new disqualifying offense as provided in chapters 393, 408 and 435, the employee is disqualified

from employment. The employee must, if he or she wishes to again become employed and is otherwise eligible to seek an exemption, seek a new exemption from disqualification. The previously-granted exemption must be identified as no longer being valid due to a subsequent disqualification in any DCF maintained computer system that tracks exemptions or identifies persons with currently valid exemptions.

14. Security of Criminal History Records. All records of criminal background information gathered for the process of determining whether an exemption should be granted must be maintained in strict compliance with the Interagency Agreement between the Department and FDLE. This Agreement requires, among other things, that the records be maintained completely separate from any other departmental records, including personnel records, and that they be kept in a secure environment.

15. Section 120.57, F.S., Administrative Hearing. The Administrative Procedures Act (chapter 120, Florida Statutes) and the Uniform Rules of Procedure (chapter 28, Florida Administrative Code) require that requests for an administrative hearing must be filed with the Department within 21 days of receipt of notification of denial by the approving authority. Unsuccessful applicants shall be instructed to file the request for hearing with the Circuit Legal Counsel whether the denial was made by the Department or APD, who will forward the request to the appropriate agency clerk. The applicant shall be instructed to include a copy of the notification of denial with the hearing request.

(Signed original copy on file)

GEORGE SHELDON
Secretary

SUMMARY OF REVISED, ADDED, OR DELETED MATERIAL

The operating procedure has been updated to provide the current requirements for processing requests for exemption from disqualification, and to add the procedures for processing APD exemption requests.

Sample Cover Letter for Request for Exemption Application (DCF)
(use letterhead paper)

Date

Name

Address

City/State/Zip

RE: Request for Exemption

Dear _____:

The attached Request for Exemption application is being sent to you in response to your request for an exemption review. Completing the enclosed documents will help to ensure that you provide the Department with the information needed to process your request for an exemption in a timely manner.

Please complete the following forms: Request for Exemption, Employment History Record, and Exemption Review Request Checklist, and return them to _____, along with the information listed on the attached checklist.

Pursuant to section 435.07 (3), Florida Statutes, you must demonstrate by clear and convincing evidence that you should not be disqualified. Applicants seeking an exemption have the burden of setting forth sufficient evidence of rehabilitation, including but not limited to, the circumstances surrounding the criminal incident for which an exemption is sought, the time period that has elapsed since the incident, the nature of harm caused to the victim, and the history of the applicant since the incident, or any other evidence or circumstances indicating that the applicant will not present a danger.

If you have any questions or need additional information, please contact me at _____.

Sincerely,

Screening Coordinator

Exemption Review Request Checklist

IT IS IMPORTANT THAT YOU PROVIDE ALL OF THE INFORMATION BELOW AND CHECK OFF EACH ITEM AS YOU OBTAIN IT. **PLEASE RETURN THIS FORM WITH YOUR PACKET.**

The attached packet is being sent to you in response to your request for an exemption review. Please print legibly and complete all information. Your packet should include the following items:

- ☐ A certified copy from the court file of the State Attorney's Petition (filing of information), and Final Disposition for each of your **disqualifying** criminal offenses is required. Certified Court documents may be obtained from the Clerk of the Court in the county in which the offense occurred. The disposition is the court document used in sentencing, or documentation of your attempts to obtain the information.
- ☐ A copy of the arrest report for each of your **disqualifying** criminal offenses is required. You may obtain a copy of this report from the arresting agency or the Court. The arrest report is the report the arresting officer wrote which states what events resulted in your arrest. If the report is not available, a statement from the court or Law Enforcement Agency that the record does not exist or has been destroyed is acceptable.
- ☐ A copy of arrest reports and dispositions for the following offenses:
- ☐ If you were given probation or parole, you should provide a letter or documentation from the probation department or Court documenting your release from supervision.
- ☐ Two or more original, signed letters of recommendation or letters of reference that will attest to your good moral character. These may be from anyone that is familiar with your past and present character. Individuals providing a letter of recommendation should include their name, address, and telephone number for verification or possible interview. Use of official letterhead is recommended, as applicable.
- ☐ Proof of your rehabilitation. Proof of rehabilitation may take the form of letters from employers, or community members, records of successful participation in a rehabilitation program, further education or training certifications, special awards of recognition, or information, which indicates that you are not a danger to the safety or well being of others. If you did not receive court ordered rehabilitation or did not seek any voluntarily, please indicate so.
- ☐ Employment history record. Identify the name and address of employer, supervisor's name and telephone number, and your job responsibilities for at least the last 3 years. Include letters of reference from those employers indicating dates of employment, or IRS W-2 forms, and/or first and last pay stubs. Attach additional sheets if necessary.
- ☐ Explanation about your personal history, e.g., explain what happened with each arrest, your current home life, education/training, family members, your goals, and community involvement.

FAILURE TO PROVIDE ALL RELEVANT DOCUMENTATION WILL RESULT IN THE DELAY OF THE REVIEW OF THE EXEMPTION REQUEST AND MAY LEAVE THE DEPARTMENT WITH INSUFFICIENT EVIDENCE OF REHABILITATION TO SUPPORT AWARD OF AN EXEMPTION.



Applicant Information: Please print legibly or type. All questions must be answered:

2. Mailing Address: _____

6. Professional License(s) or Certificate(s) if any, and license number: _____

7. Please explain, in detail, the reason(s) for your disqualification. List any disqualifying crimes and dates of offenses. Be advised that any and all information or documentation submitted by you may be considered public record.

[illegible]

* Your social security number is not required by law. However, law enforcement criminal history databases that the Department must search for the disqualification/exemption process under chapter 435, Florida Statutes, rely on social security numbers as an identifier to distinguish individuals within the databases. If you elect not to provide your social security number, the Department may be unable to process your exemption request.

Request for Exemption, page 2

Request for Exemption Review: I am formally requesting that the agency, in accordance with the provisions of Chapter 393, 408 and 435, Florida Statutes, provide me with an Exemption Review. I understand that I must provide clear and convincing evidence to support a reasonable belief that I am of good moral character and that I pose no danger to the health or safety of children, persons with developmental disabilities, or vulnerable adults.

I understand that the decision of the agency regarding this Exemption may be contested through a hearing under the provisions of Chapter 120, F.S.

Signature

/ /
Date



EMPLOYMENT HISTORY RECORD

Please provide your employment history for the last three years:

Most recent employer: _____
Facility Name

Facility Address City State
() _____
Area Code Telephone Number Supervisor: _____

Dates Employed: From _____ To _____

Your Title or Occupation: _____

Responsibilities: _____

Next Employer: _____
Facility Name

Facility Address City State
() _____
Area Code Telephone Number Supervisor: _____

Dates Employed: From _____ To _____

Your Title or Occupation: _____

Responsibilities: _____

Next Employer: _____
Facility Name

Facility Address City State
() _____
Area Code Telephone Number Supervisor: _____

Dates Employed: From _____ To _____

Your Title or Occupation: _____

Responsibilities: _____

Please attach additional pages as necessary.

Sample Letter to Applicant: Exemption Granted

(use letterhead paper)

Date

Name

Address

City/State/Zip

Dear _____:

This is to advise you that your request for an exemption from disqualification has been granted. This decision has been made after careful review of all the evidence on record concerning the incident, as well as the information you presented for our consideration.

You are now eligible to be considered for employment/licensing in a caretaker position working with children or vulnerable adults.

Appropriate staff of _____, where your background check was initiated, will be advised that you have been granted an exemption. If you have a period of more than 90 days between positions requiring screening, a new background check will be required. However, this exemption from disqualification is transferable in most cases to other programs regulated by the Department of Children and Families.

The granting of an exemption does not imply a recommendation for, or against, licensure or employment. It only establishes eligibility for consideration. The final decision regarding licensure or employment rests with the licensing authority or the employer after they consider all available information and the established standards of that agency or employer.

Your exemption was granted based on a background check completed on _____. If you commit an additional disqualifying offense after that date, your exemption is no longer valid and you will again be disqualified.

If you have any questions about this information, please feel free to contact _____, the Screening Coordinator, who may be reached at _____.

Sincerely,

Approving Authority

Sample Letter to Provider: Exemption Granted
(use letterhead paper)

Confidential

Date

Name

Address

City/State/Zip

RE: _____ (insert applicant's name)

Dear _____:

Please be advised that pursuant to the state of Florida screening requirements for caretakers, the above named person has been granted an exemption **from disqualification from employment**. This means that he/she is eligible to serve in a caretaker position in programs serving children or vulnerable adults in programs regulated by the Department of Children and Families.

The employee has been advised in writing that an exemption has been granted.

Should you have questions about this information, please do not hesitate to call me at _____.

Sincerely,

Approving Authority

Sample Letter to Applicant: Exemption Denied
(use letterhead paper)

CERTIFIED MAIL(7001 1140 0002 2969 xxxx)
RETURN RECEIPT REQUESTED

Date

Name

Address

City/State/Zip

RE: Request for Exemption From Disqualification

Dear _____:

This is to advise you that your request for exemption from disqualification received _____ has been denied. This decision means you are not eligible to be employed, licensed or registered in positions having direct contact with children or vulnerable adults served in programs regulated by the Department of Children and Families.

The Department considered all available information that led to your disqualification, as well as all information provided by you regarding your disqualification. The Department has denied your request because [INSERT SPECIFIC REASONS FOR THE DENIAL]. For these reasons, the Department has concluded that you failed to present clear and convincing evidence that you should not be disqualified.

You have the right to request an Administrative Hearing if you dispute this action. If you desire to request a hearing, you must do so in writing.

Your request must be mailed to:

Name

Circuit/Regional Legal Counsel

Department of Children and Families

Address

City, FL XXXXX

For applicants seeking employment through an Agency for Persons with Disabilities exemption, please modify this sample letter by asking that their request for an Administrative Hearing be mailed to:

Agency Clerk

Agency for Persons with Disabilities

4030 Esplanade Way

Tallahassee FL 32399-0950

Your request must contain the following:

1. Your name, mailing address and telephone number, including area code;
2. A statement requesting a hearing and referencing this letter, including when and how you received notice of the decision;
3. A statement of how your substantial interests are or will be affected by the agency decision;

4. A statement identifying all facts alleged in the Department's denial letter that you wish to dispute ; if there are no disputes of facts, then so state.
5. If facts are in dispute, a statement of the facts as you perceive them to be;
6. A statement of the specific rules or statutes that the petitioner believes requires the agency to reverse or modify its decision;
7. A statement saying what action you want the agency to take in this matter; and
8. Such other information that you believe would be material.
9. If you desire a hearing, complete the attached request and submit it with the additional information requested above.

If you request an Administrative Hearing, you may not hold a position of direct contact with individuals in programs regulated by the Department of Children and Families unless and until a final order is entered regarding the Administrative Hearing results.

Your request for a hearing must be RECEIVED by the Department within 21 CALENDAR DAYS of your receipt of this denial letter. If you do not timely file your request for a hearing, your right to a hearing WILL BE WAIVED.

Your failure to request a hearing in the time allowed will operate as an admission by you to the accuracy, authenticity and correct maintenance of the Department's records. YOUR FAILURE TO REQUEST A HEARING, OR THE DENIAL OF A REQUEST ONCE MADE, will result in your disqualification remaining in effect and you will not be eligible for employment, licensure or registration in programs regulated by the Department of Children and Families. Formal mediation is not available concerning this agency action.

Sincerely,

Approving Authority

Attachment:
Request for Administrative Hearing



State Agency's Address: _____

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Request for Administrative Hearing, page 2

If petitioner disputes the facts upon which the Agency relied, petitioner must state the facts as petitioner believes them to be below:

Explain how Petitioner's substantial interests are or will be affected by the Agency's decision:

Petitioner wants the Agency to take the following action in this matter:

Petitioner's Signature

Date

(Attach additional sheets if more space is needed.)

Sample Letter Notifying Applicant He/She Does Not Meet
Criteria for an Exemption Review
(use letterhead paper)

Date

Name

Address

City/State/Zip

RE: Request for Exemption

Dear _____:

Thank you for submitting a request for an exemption review. The department is not allowed to consider your request for exemption until three years after a disqualifying offense.

If you have any questions or need additional information, please contact me at _____.

Sincerely,

Screening Coordinator