

# Frequently Asked Questions about PA Mandated Background Checks

Updated September 1, 2015

## [Are these final or will they change?](#)

As with all laws, there could be additional changes. No additional changes are being considered at this time.

## [What do I need to know before I review these FAQ?](#)

Here's some terminology that might help:

**Act 153, Act 15, PA mandated Background checks** – PA Act 153 of 2014 required, among other things, specific background checks for adults working with children. On July 1, 2015, PA Act 15 of 2015 became law and amends much of Act 153. We will refer to this combination of laws, as it refers to the background checks, as PA mandated Background Checks. Many resources still refer to Act 153 while a few reference Act 15.

**Background checks, clearances, documents and certifications** are used interchangeably in various documents and websites that address the PA mandated Background checks. Certifications has replaced clearances, documents and background checks in the wording of the law and most websites.

**Unit** – is a Scouting term and refers to Cub Scout Packs, Boy Scout Troops, Venture Crews, Sea Scout Ships, and Explorer Posts

**Chartered organization** – is a community organization that Chester County Council partners with to deliver the Scouting programs – if you are not familiar with the concept, think “sponsor.”

This is new to all of us. This PA state law adds an extra layer of protection to the Boy Scouts' comprehensive Youth Protection program – and that's a good thing for our Scouts. It will take a little extra time and effort to understand and comply with the requirements – but it's the law! Chester County Council is committed to helping our volunteers through every step of the process.

## [What is the timeline on this?](#)

Adults who volunteered, registered and un-registered, prior to August 25, 2015 have until July 1, 2016 to comply with the law.

Adults who volunteer, registered and un-registered, after August 25, 2015 will need the background checks before they commence their services.

## [What does "registered" and "un-registered" mean?](#)

The law applies to adult volunteers regardless of their registration status. Parents who “assist,” and other “helpers,” may also need the background checks.

## [Does everyone need the background checks?](#)

No. The State has set specific conditions under which a volunteer must obtain the background checks and Chester County Council is following the state law. However, nothing prohibits a chartered organization (your unit sponsor), or even your unit, from requiring additional people to obtain the background checks. Always check with your local unit to see what they specifically require.

## [Who does the State and Chester County Council require to obtain the Background Checks?](#)

The exact wording is, “An **adult** (18 or older) applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service, responsible for the child’s welfare or having direct volunteer contact with children.” (Scouts fall under “program, activity or service”)

The law defines “responsible for the child’s welfare” as it relates to Scouting as: Providing temporary care, supervision, training, or control of a child in lieu of parental care, supervision, and control. Think of the person in charge of the scouts at any given time.

The law defines “direct volunteer contact with children” as: The care, supervision, guidance or control of children and routine interaction with children. It further defines “routine interaction” as: regular and repeated contact that is integral to a person’s volunteer responsibilities. Think unit leaders and den leaders and their assistants but it could include others both registered and unregistered who meet the definition. A committee member or Chartered Organization Representative or a parent who “volunteers” to attend and provide leadership to a number of events during the year would meet this definition even though their primary volunteer position would not.

See “Is there more guidance on who does and doesn’t need the background checks?”

## [Can my background checks be used for more than one organization?](#)

Yes, any person who obtained their background checks within the previous 60 months may serve in a volunteer capacity for any program, activity or service. Each organization is required to view and keep a copy of the certifications on file. So keep track of the original documents to avoid unneeded duplication of effort and payments to obtain new originals.

Background checks obtained for free for volunteers may not be used for employment.

## [What background checks are required by the Commonwealth of Pennsylvania?](#)

All prospective volunteers who meet one or more of the conditions requiring background checks must obtain the following clearances:

- Report of criminal history from the Pennsylvania State Police (PSP)
- Child Abuse History Clearance from the Department of Human Services (Child Abuse).
- A fingerprint-based federal criminal history (FBI) submitted through the Pennsylvania State Police or its authorized agent

**HOWEVER, IF:**

- The position the volunteer is applying for is unpaid; **AND**
- The volunteer has been a Pennsylvania resident continuously for the past 10 years or has already completed the FBI criminal history since establishing residency in PA.

**THEN** The volunteer may skip the fingerprint-based FBI check by swearing or affirming in writing that they are not disqualified from service based upon a conviction of an offense under §6344. Chester County Council has developed a “Disclosure Statement Application for Volunteers” that must be completed for volunteers who qualify for this option.

## [What is the renewal requirement for background checks?](#)

They must be renewed every 60 months (five years). The fingerprint FBI check or the Disclosure Statement only needs to be completed one time since establishing PA residency.

## [How do I obtain my certifications?](#)

The Child Abuse, PSP and FBI clearances can all be applied and paid for electronically. The FBI clearance also requires a fingerprint submission. All necessary instructions and links to apply for these clearances can be found at <http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>

## [How much do background checks cost?](#)

- The PSP clearance is free for volunteers.
- The Child Abuse clearance is free for volunteers.
- The FBI clearance costs \$25.75 through the Department of Human Services

## **Are there specific requirements to get the free background checks?**

They are free if all of the following apply:

- The certifications are necessary for you to comply with the law.
- You will not use the certifications for employment or to meet the requirements of any other law.
- It has been at least 57 months since your requested the last free background checks.
- You attest in writing, as part of the application process, that all of the above are true.

## [Who pays for background checks?](#)

The costs for volunteers will be minimal – only a one-time fee of \$25.75 for volunteers who have not lived in PA for 10 years is required. This fee will be the responsibility of the volunteer. In some instances, individual units may have the resources to assist volunteers.

The only time Chester County Council is required to bear the cost of the background checks is when there is reasonable belief that the volunteer was arrested or convicted of an offense that would deny participation or named as a perpetrator in an indicated or founded report. In these situations, the council must immediately require the volunteer to obtain their clearances.

## [Do I still need to submit a copy of my PSP or FBI clearance results when applying for my child abuse clearance?](#)

If you don't know what this means skip this question – it refers to an old policy. Beginning December 31, 2014, volunteers are no longer required to submit a copy of their PSP or FBI clearances with their Child Abuse application. If the department receives copies attached to the child abuse application, they will not return those copies and they will be shredded due to the confidential nature of the information contained on the clearances.

## [Are there any other state requirements?](#)

If a volunteer is arrested for or convicted of an offense that would constitute grounds for denying participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the volunteer must provide the administrator or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database. A volunteer who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of a volunteer position.

### [How do I submit the background checks to Chester County Council?](#)

We have developed a number of ways in an attempt to make the process as easy as possible, while maintaining the confidentiality of the documents. The full information may be found at <http://www.cccbsa.org/Submitting>

### [What is the provisional clearance requirement for volunteers?](#)

This only applies to individuals who reside in another state or country. They may serve as a volunteer for no more than 30 days in a calendar year as long as they meet the background check requirements of their state or country of residence. Out-of-state volunteers may return to the Commonwealth multiple times throughout the year, as long as they do not exceed 30 days in a calendar year.

If the individual will be volunteering for more than 30 days and meets one or more of the conditions requiring background checks, they must obtain background checks as outlined above under “What background checks are required?” Volunteers who reside in Pennsylvania do not have a provisional period and must obtain background checks as outlined above under “What background checks are required?”

### [Who keeps track of all of this?](#)

Chester County Council is required to view each of the documents and maintain a copy of them. Intentionally failing to require an applicant to submit the required background checks is a misdemeanor of the third degree with penalties of up to \$2,000 and/or a year in prison for each offense. In addition, some chartered organizations will also maintain copies for their records.

### [Can an agency or organization institute additional standards?](#)

Yes, nothing prohibits an organization (the unit, chartered organization or the council) from requiring additional information as part of the background check process. The PSP and Child Abuse certifications would not be free if an organization required them more frequently.

### [Has Chester County Council instituted additional standards?](#)

Since the council is required to maintain the records for all of our volunteers, we are requiring a signed waiver, one for our Maryland units and one for our Pennsylvania units, for everyone who does not meet any of the conditions requiring background checks under Act 153. This way we can record a response from everyone. The forms may be found at [www.cccbsa.org/PABackgroundChecks](http://www.cccbsa.org/PABackgroundChecks). They must be signed by the volunteer and verified by a key unit leader that the volunteer does not meet any of the conditions requiring PA Mandated background checks.

### [When we recruit new leaders in the fall is there any provisional period where they can meet before they get the background checks? If not, could they conduct a meeting under the supervision of a leader who does have background checks?](#)

There is no provisional period for PA residents. New leaders are not allowed to serve in any capacity until clearances are received. The good news is that in many cases there is a quick turnaround time on getting the background checks. Cub Scout Packs may want to develop a plan where an experienced leader runs the first one or two den meetings for new dens with new leaders. This would not only avoid a “waiting” period, but would also allow the new dens to get off to a smooth start.

## Is there any more guidance on who does and doesn't need the background checks?

### Here are the criteria that we need to consider -

1. **Adult** – This only applies to adults. So anyone under 18, regardless of their role in Scouting, is not required to obtain the certifications. Next we must consider if the adult has applied for, or is holding, an unpaid position as a volunteer.
2. **Applying for or holding an unpaid position as a volunteer** – So we need to determine if the person is/will be acting as a volunteer or if they are program participants or guests/visitors. Adult participants, guests and visitors are not required to obtain certifications. If the adult has applied for or is holding an unpaid position as a volunteer then we need to consider are they responsible for the child's welfare.
3. **(Responsible for the child's welfare) Provide permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.** We need to determine which volunteers are acting in lieu of a parent. Those who do need the certifications. If a volunteer is not acting in lieu of a parent then we must consider if they have Direct Volunteer Contact.
4. **(Direct Volunteer Contact) Having care, supervision, guidance or control of children and regular and repeated contact that is integral to a person's employment or volunteer responsibilities.** We need to determine which volunteers, beyond those acting in lieu of a parent, meet this requirement. They would need the certifications. If an adult applying for or holding an unpaid volunteer position is neither responsible for the child's welfare nor has Direct Volunteer Contact then the certifications are not needed.

### Here are the considerations and interpretations of the above criteria –

1. **Adult** – clear cut. Either you are or you are not 18 years of age or older.
2. **Applying for or holding an unpaid position as a volunteer** – So we need to determine if the person is/will be acting as a volunteer or if they are program participants or guests/visitors.

Adult Program participants include:

- 18-20 year-old Venturers, Explorers and Sea Scouts.
- Special Needs Boy Scouts (age 18+).
- Tiger Parents (the Tiger Den Leader is a volunteer).

Adult guests/visitors include:

- Parents and other adults invited to attend Courts of Honor & Pack Meetings.
- Parents and other adults invited to attend Blue and Gold Banquets, Troop dinners and Pack picnics.
- Parents and other adults invited to attend family day trips and family camping trips.
- Parents and other adults attending Summer Camp Visitors Day.
- Parents and other adults attending a "joining event" with a child such as a Cub Scout meeting or activity day, a Boy Scout troop meeting, day trip or camping trip in order to determine if they want to join.

3. **(Responsible for the child's welfare) Provide permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.** We need to determine which volunteers are acting in lieu of a parent.

The person in charge of each meeting and activity is acting in lieu of the parents. For trips, there should also be a backup person who would act in lieu of parents should anything happen to the person

in charge. This person is responsible for the Scouts' welfare from the gathering period until they are picked up by their parents.

This includes anytime one or more Scouts are under the supervision of an adult(s). Examples include: Unit meetings, den meetings, day trips, weekend trips, summer camp, high adventure trips, service projects, fundraisers (if Scouts meet together with an adult other than their parents), Merit Badge Counseling, Boards of Review.

Additionally, on Cub Scout camping trips, any Scout not accompanied by an adult must be under the supervision of a pre-arranged specific adult (Guide to Safe Scouting). That person is also acting in lieu of parents: "In special circumstances, a Cub Scout whose parent or legal guardian is not able to attend an overnight camping trip may participate under the supervision of another registered adult member of the BSA who is a parent of a Cub Scout who is also attending. The unit leader and a parent or legal guardian must agree to the arrangement, and all Youth Protection policies apply."

4. **Having care, supervision, guidance or control of children and regular and repeated contact that is integral to a person's employment or volunteer responsibilities.** We need to determine which volunteers, beyond those acting in lieu of a parent, meet this requirement. We must also determine what "regular and repeated" means.

The State Department of Human Services has narrowly interpreted "routine interaction" (regular and repeated contact) as quite limited contact. Any adult who assists with the care, supervision, guidance or control of children (other than their own children) at more than one overnight trip (can include multiple days) during their child's participation with the group or 4 or more meetings, trips or activities in a calendar year are considered to have regular and repeated contact.

This applies to all:

- Scoutmasters and Assistants
- Cubmasters and Assistants
- Venture Crew Advisors and Assistants
- Explorer Post Advisors and Assistants
- Sea Scout Skippers and Mates
- Tiger Den Leaders
- Cub Scout Den Leaders and Assistants
- Webelos Den Leaders and Assistants
- Anyone, registered or non-registered, who functions as one of the above.
  - A registered Committee Member who also serves as an Assistant Den Leader
  - A non-registered parent who acts as an Assistant Den Leader (should be registered)
  - A Chartered Organization Rep who also functions as an Assistant Scoutmaster
- Order of the Arrow Lodge Officers and Committee Chairmen between 18 and 20 years of age and all Advisors, regardless of their registered position
- Unit Commissioners
- All Staff of Junior leader training courses (NYLT, Den Chief, etc.) 18 years of age or older, regardless of their registered position

This also may apply to other registered leaders and non-registered adult volunteers (the state law makes no distinction between registered and non-registered status)

#### **A few side notes –**

Almost everyone who wears a uniform needs the background checks – they are representing themselves as leaders of the Scouting program. A typical exception would be that 50-year veteran of

Scouting who shows up at the annual troop dinner in his uniform (usually an older version of the current uniform)

When a person knows a number of Scouts by name, it's a good sign he is involved enough that he should get the background checks.

Individual units should also check with their chartered organization – some will have stricter requirements than the Boy Scouts. Units must meet the requirements of both the Boy Scouts and their chartered organization. Unit committees may also develop additional requirements.

In a typical unit, all registered volunteers and involved parents will need them. Parents you rarely see and people you keep registered for “tenure” (“oldtimers” and college students living out of the area) probably do not. There could also be some Committee members who do not deal directly with the Scouts and the Chartered Organization Representative may or may not need them – depends how involved he is.

The law does not apply to adult volunteers in Scout units outside of Pennsylvania. Leaders of those units are allowed to volunteer for up to 30 days in a calendar year in Pennsylvania as long as they meet the background check requirements of their home state. If they exceed 30 days then they would need the PA state mandated background checks.

### **Some Specific Questions and Answers:**

#### **This seems complicated, what if we get it wrong?**

As long as you show good intent to comply with the law there is no penalty. When making determinations, it is always better to err on the side of the Scouts' safety. The background checks are free if you've lived in PA for 10 years, they are good for 5 years and multiple organizations will require them. Sooner, rather than later, many parents will get them.

#### **So who on a camping trip needs them?**

##### Responsible for a child's welfare

The leader in charge of the trip and his backup – as they are acting in lieu of the parents.

Any Cub Scout volunteer who is responsible for a child other than their own – as they are acting in lieu of parents.

If it is a family camping trip, the rest of the adult participants do not need them (although many will have them because of their other responsibilities with the unit)

##### Direct Volunteer contact

If it is not a family camping trip, **all of the adults need them except:**

Adults attending with their sons as guests to see if they want to join

Adults who are attending just their first trip and who have not been responsible for the care, supervision, guidance or control of children other than their own at more than 3 meetings, trips or activities during the year.

#### **What about drivers?**

##### Responsible for a child's welfare

The leader in charge of the trip or his backup, from the gathering until parents pick up their Scouts, is acting in lieu of the parents.

##### Direct Volunteer contact

The drivers operate under the leader in charge of the trip and so any driver who has been responsible for the care, supervision, guidance or control of children at more than 3 meetings, trips or activities will need them. (Any driver staying for a campout would need to review those requirements.)

## **Who would need them for day trips, service projects and fundraisers?**

### Responsible for a child's welfare

The leader in charge of the day trip and his backup, from the gathering until parents pick up their Scouts, as they are acting in lieu of the parents.

On every service project and fundraiser where Scouts participate without a parent, one person must be designated to supervise the Scouts and act in lieu of the parents at all times that Scouts are present. – (might not be the person in charge of the service project or fundraiser)

### **\*\*Fundraising exception\*\***

A parent with their child and up to 3 other Scouts, in a public location (i.e. outside a store or church) may supervise a product sale for up to 2 hours without background checks. However, if they have been responsible for the care, supervision, guidance or control of children during more than 3 meetings, trips or activities they would need them.

### Direct Volunteer contact

The other adults who are responsible for the care, supervision, guidance or control of children would need them if they have been responsible for the care, supervision, guidance or control of children during more than 3 meetings, trips or activities.

(Technical experts on service projects, parents preparing lunch, a parent setting up a fundraiser booth, these are examples of adults who may not have care, supervision, guidance or control of children and would not need the background checks.)

If it is a family day trip (i.e. a pack picnic and field day or a trip to a sporting event) only the trip leader and his backup and volunteers responsible for Scouts without parents would need the background checks. The other adults are participating with their families.

## **Who would need them for meetings?**

### Responsible for a child's welfare

The leader in charge of the meeting, from the gathering until parents pick up their Scouts, is acting in lieu of the parents.

### Direct Volunteer contact

Any other adult at the meeting who is responsible for the care, supervision, guidance or control of children would need them if they have been responsible for the care, supervision, guidance or control of children during more than 3 meetings, trips or activities.

(Adults present to conduct unit business with other adult leaders, parents arriving to pick up their sons, adults making presentations as subject matter experts while the Scouts remain under the control of the leaders, and parents invited as guests to attend a meeting, are examples of adults who may not have care, supervision, guidance or control of children and would not need the background checks.)

## **Do people on boards of review need background checks?**

If the board of review is held in a room adjacent to the unit meeting room while the unit is meeting no background checks are required. The leader in charge of the meeting is acting in lieu of the parents.

If the board of review is held in a separate building or at a time when the unit is not meeting, then one person on the board or present in the room must be responsible for the child's welfare. He has supervision and control of the child in lieu of parents and needs the background checks. The other adults do not have care, supervision, guidance or control of the child so do not need background checks.

### **Does this mean parents are not encouraged to attend meetings?**

All meetings are open to all parents to observe what is taking place. There are no closed or secret programs. The background checks are required only when an adult has care, supervision, guidance or control of children other than their own.

### **Is there an easier way to remember this?**

#### Responsible for a child's welfare

Any time a Scout or a group of Scouts participate in any Scouting activity, someone is responsible for his/their welfare. That person provides temporary care, supervision, training or control of a child in lieu of parental care, supervision and control. Background checks are required.

#### Direct Volunteer contact

For all other adults who have volunteered to help in a position where they will be responsible for the care, supervision, guidance or control of children other than their own, they only need the background checks if they assist in this way more than 3 times in a calendar year or on more than 1 overnight trip at any time during their child's association with the unit.

### [If our troop has a guest speaker or our pack has an entertainer, we go to a sleepover at a museum or battleship, we visit a fire station, airport or nature center – do those people need background checks?](#)

Because they may have frequent contact with children, many of them may need them for their own organization. It never hurts to ask. They would not meet the criteria requiring background checks for your unit.

### [What happens when a Boy Scout turns 18?](#)

There are a few different situations:

If he is no longer involved in any way – nothing is required and he will “drop” at the next recharter.

If he is no longer active but wants to maintain his registration, he must fill out an adult application and register as a 92U (unit college Scouter reserve) even if he's still in high school. No background checks are required (other than the automatic BSA background checks). He would also need to sign and submit the PA or MD Scouter Waiver of PA Mandated Background Checks.

If he wants to remain active in the troop, he must fill out an adult application and register as an Assistant Scoutmaster and complete the applicable PA Mandated Background checks.

There are leadership positions in Cub Scouts that he could apply for – all would require background checks. He could also switch his registration to a venture crew as an “adult program participant” which would not require background checks.

### [Is there any financial help for a leader who cannot afford the fees?](#)

I wish the answer was yes and we would encourage each unit to do everything they can to help. Chester County Council has decided to pick up the fee for all of our employees (the vast majority of whom are summer camp staff members.) This has created an un-budgeted expense of more than \$5,000. The council is also faced with the need of hiring a part-time person to record and file all of this information. We just don't have the financial resources to do more.

### [I already have background checks for another organization/work. May I use those?](#)

As long as they are the background checks required by the law and are less than 5 years old, they may be used.

### [If I see a violation of this law by our unit, who should I contact?](#)

Our hope is that all units will work to fully comply with this and all laws. We will be glad to work with all units to help them comply. If it is apparent the leadership intends to violate this or any law, the chartered organization representative should be notified. If he/she is not responsive, contact the Scout Executive. In extreme and blatant violations, law enforcement should be notified. We expect this will not be an issue.

### [What happens at recharter time for those without the required background checks?](#)

We will strongly encourage all volunteers who meet the criteria to complete the background checks by the end of October. Any volunteer who meets the criteria but does not have the background checks complete by recharter time will need to submit a Recharter Letter of Understanding acknowledging they will not continue to work with children after July 1, 2016 if they do not provide us with the certifications prior to that date. In this way, the parent of a senior in high school or a parent of a fifth-grader who is not going to continue in Scouts (say it isn't so) could finish out the school year without getting the clearances.

### [Does a volunteer who meets the 10 year-residency requirement other than living at an out-of-state college need the FBI check?](#)

No, as long as the volunteer maintained PA residency during college.

### [All of the information discusses getting the background checks online. Are there other options?](#)

It's a lot easier online. If you don't have a computer or internet access, or don't navigate online well, probably someone from your unit would be able to help. Most libraries would be able to help you as well, if you bring the information with you. We can also assist you at the Council Service Center. You can also request paper applications...online at:

<http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>. The only form of payment they accept is money order and it takes much longer, but it is an option.

### [How will this work with the Order of the Arrow where youth participants can be as old as 20 years of age?](#)

All members of the Order of the Arrow are required to be registered with the Boy Scouts of America. The background check requirements are based on their registered position. The exception is that all Lodge Officers and committee Chairs between the ages of 18 and 20 must have background checks regardless of

their registered Scouting position. Additionally, all Lodge and committee advisors must have background checks, regardless of their registered Scouting position.

### [What if an 18-year-old is registered as a Venturer and an Assistant Scoutmaster?](#)

The more restrictive requirements take priority. To stay active with the troop, the 18-year-old must get the required certifications.