The National Service Criminal History Check (CHC) is a screening procedure established by law to protect the beneficiaries of national service. Since November 23, 2007, the Corporation for National and Community Service (CNCS) has had regulations setting requirements for grantees to perform a National Service Criminal History Check (“Check”) on individuals with recurring access to a vulnerable population. On October 1, 2009, regulations went into effect implementing Section 189D of the National and Community Service Act of 1990, as amended by the Serve America Act, expanding the positions subject to the Check to include any individual receiving a living allowance, stipend, national service education award, or salary through a program receiving assistance under the national service laws, regardless of their level of contact with a vulnerable population.

To implement the Serve America Act, CNCS proposed amendments to its National Service Criminal History Check regulation on July 6, 2011. The final rule was published on October 5, 2012. CNCS grantees (Washington Service Corps) must conduct and document a Check that includes a fingerprint-based FBI criminal history check on individuals in covered positions who begin work, or who start service, on or after April 21, 2011, and who have recurring access to children 17 years of age or younger, to persons age 60 and older, or to individuals with disabilities. Washington Service Corps (WSC) sub-grantees must conduct: (1) a nationwide name-based check of the National Sex Offender Public Registry (NSOPR) website which consists of a web-based check of the centralized system that identifies individuals who are registered as sex offenders in States, territories, or with many federally recognized Tribes; (2) a search (by name or fingerprint) of the statewide criminal history registry for the state in which the program operates and the state in which the individual resides at the time of application; (3) a fingerprint-based FBI check through WSC-approved Channeler (Fieldprint). “Recurring access” is defined as “the ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.” (45 CFR 2510.20). The effective date of the October 5, 2012, rule is January 1, 2013.

Source of Requirement
Title 45, Code of Federal Regulations, Parts 2510, 2540, 2551, and 2552. Corporation for National and Community Service Criminal History FAQ’s. Also section 1111 of title 18, United States Code.

Responsibility
It is the responsibility and contractual obligation of all sub-grantees under the Washington Service Corps to comply with the code of federal regulations, CNCS FAQ’s and internal WSC guidance in the requirements around criminal history background check compliance.
Regulations only allow WSC to disqualify members who are listed, or required to be listed, on a sex offender registry or anyone convicted of murder as defined and described in 18 U.S.C. 1111. Anyone who refuses to undergo the Check may not serve. Anyone who makes a false statement in connection with a program’s inquiry concerning the individual’s criminal history is ineligible to serve. Sub-grantees may include its own policy or procedures to determine if additional offenses exist that may disqualify them as eligible to serve in that organization. Sub-grantees should consider the factors set forth in the EEOC’s guidance under Title VII (http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm), including the nature and gravity of the offense, the time that has passed since the conviction or completion of the sentence, and the nature of the position. Sub-Grantees must also have written policies on their disqualification criteria and be consistent in how those criteria are applied to all individuals. Policies or procedures applied must be provided to the WSC for documentation.

In addition, sub-grantees should be aware of federal reentry policy, which seeks to minimize unjustified collateral consequences on formerly incarcerated persons. Participation in national service programs funded by the Corporation (WSC) could aid the successful reentry of formerly incarcerated persons into society. Therefore, barriers to participation in national service programs for those formerly incarcerated persons who are not statutorily ineligible to serve should be minimized as much as possible without putting program beneficiaries at genuine risk.