

§ 136.416

§ 136.416 When should the IHS deny employment or dismiss an employee?

The IHS must deny employment to an individual or dismiss an employee, when the duties and responsibilities of the position the individual person would hold or holds involve regular contact with or control over Indian children, and it has been adjudicated, pursuant to § 136.414 and § 136.415, that the individual has been found guilty of, or entered a plea of guilty or nolo contendere to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State or Tribal law involving a crime of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children. The IHS has the discretion to place such an individual in a position, if available, that does not involve regular contact with or control over Indian children, if a determination has been made that such placement would not put Indian children at risk and the individual would be able to perform the duties and responsibilities of this position.

§ 136.417 May the IHS hire individuals pending completion of a background investigation?

Pursuant to section 231 of the Crime Control Act of 1990, Pub. L. 101-647, 42 U.S.C. 13041, as amended by Pub. L. 102-190, the IHS may hire provisionally individuals as defined in these regulations, prior to the completion of a background investigation if, at all times prior to receipt of the background investigation during which children are in the care of the individual, the individual is within the sight and under the supervision of a staff person and a satisfactory background investigation has been completed on that staff person.

§ 136.418 What should the IHS do if an individual has been charged with an offense but the charge is pending or no disposition has been made by a court?

(a) The IHS may deny the applicant employment until the charge has been resolved.

42 CFR Ch. I (10-1-03 Edition)

(b) The IHS may deny the employee any on-the-job contact with children until the charge is resolved.

(c) The IHS may detail or reassign the employee to other duties that do not involve regular contact with children.

(d) The IHS may place the employee on indefinite suspension, in accordance with statutory and regulatory requirements, until the court has disposed of the charge.

PART 136a—INDIAN HEALTH

Subpart A—Purpose

Sec.

136a.1 Purpose of the regulations.

136a.2 Administrative instructions.

Subpart B—What Services are Available and Who is Eligible to Receive Care?

136a.10 Definitions.

136a.11 Services available.

136a.12 Persons to whom health services will be provided.

136a.13 Authorization for contract health services.

136a.14 Reconsideration and appeals.

136a.15 Health Service Delivery Areas.

36a.16 Beneficiary Identification Cards and verification of tribal membership.

Subpart C [Reserved]

Subpart D—Transition Provisions

136a.31 Transition period.

136a.32 Delayed implementation.

136a.33 Grace period.

136a.34 Care and treatment of people losing eligibility.

Subpart E—Preference in Employment

136a.41 Definitions.

136a.42 Appointment actions.

136a.43 Application procedure for preference eligibility.

Subpart F—Abortions and Related Medical Services in Indian Health Service Facilities and Indian Health Service Programs

136a.51 Applicability.

136a.52 Definitions.

136a.53 General rule.

136a.54 Life of the mother would be endangered.

136a.55 Drugs and devices and termination of ectopic pregnancies.

136a.56 Recordkeeping requirements.

136a.57 Confidentiality.