



Haley Dampier; *revised 6/12/2025*

# Background Check Variance Request Application

# Agenda

- Introduction
- Program & History
- Purpose of Background Checks
- Statutes & Regulations
- Who Does This Apply To?
- Barrier Crime Matrices & Crimes
- Variance Application
- Adjudication
- Conditions

The background of the slide features a scenic view of a snow-capped mountain peak under a blue sky with light clouds. In the foreground, there is a collection of fishing gear, including green and blue nets and orange floats, resting on a dark, rocky surface. A dark, semi-transparent vertical bar is positioned on the left side of the image. In the top right corner, there are four vertical red bars of varying heights.

# Program

- Falls under “Elder and Variance Services” (638 Subgrantee).
- To be eligible for Variance Services at ANJC, participants must be American Indian or Alaska Native and have received a Notice of Barring Conditions from a Provider under DHSS.




# Program History

- Prior to a centralized background check program, Alaska had 12 Statutes and 19 separate sets of regulations that governed background checks over AK Department of Health, Division of Health Care Services (DHSS) providers.
- In 2005, Alaska began participating in the National Background Check Pilot Program, overseen by the Centers for Medicare & Medicaid Services (CMS). These background check standards applied to Skill Nursing Facilities. Alaska decided to apply these standards to all DHSS providers.
- Alaska received a grant and built the Legacy Background Check System.
- Alaska consolidated all DHSS background check statutes and regulations into one Statute (47.05) and one Regulation (7 AAC 10.900). The program was running by 2007.
- In 2010, Alaska was awarded a grant to update Legacy. In 2013, the New Alaska Background Check System (NABCS) was adopted.
- Updates to the NABCS continue including making more records accessible electronically.

# Purpose

- Establish standards & procedures for barrier crimes & conditions, criminal history checks & ensure compliance with the centralized registry.
- Identify offenses and conditions that would bar an individual from licensure, certification, or approval from DHSS.
- Ensure the health, safety, and welfare of vulnerable populations.





“Probably 98 percent of people with a criminal history come out of jail feeling like they won’t qualify for most things in life such as a good job, housing and resources even though these things are available. I’d like to share my experience as a testament to other applicants that these barriers can be overcome. By being approved for a Variance, I became qualified to be able to work as a Peer Support Specialist and help others who had had similar journeys to mine. I never thought that that could be possible until I received help from ANJC.”

– Maggie Fairbanks

# Statutes & Regulations

AS 47.05 – Statute (Gives the authority): Administration of Welfare, Social Services & Institutions

7 AAC 10.900- Regulation: Barrier crimes, processes, fees, etc.

## 7 AAC 10.900. Purpose and applicability; exceptions

(a) The purpose of 7 AAC 10.900 - 7 AAC 10.990 is to establish standards, requirements, and procedures dealing with barrier crimes and conditions and with background checks, including

(1) the identification of barrier crimes and conditions that would bar an individual from

(A) licensure, certification, or approval by the department;

(B) a finding of eligibility to receive certain payments from the department; and

(C) association with a provider in a manner described in (b) of this section;

(2) requirements for requesting a background check and procedures to determine whether a barrier crime or condition exists; and

(3) requirements for maintaining compliance with AS 47.05.300 - 47.05.390, AS 47.32, and 7 AAC 10.900 - 7 AAC 10.990, including standards for association and requirements for continued monitoring and notification



# Who Does This Apply To?



- Individuals or entities required by statute or regulation to be licensed or certified by DHSS.
- Individuals or entities eligible to receive payments from DHSS for the health, safety and welfare of persons served by programs administered by DHSS.



# Barrier Crime Matrices



The diagram illustrates the structure of Barrier Crime Matrices. It features a central column of four text labels: 'Permanent', '10 Year Barriers', '5 Year Barriers', and '3 Year Barriers'. These labels are separated by horizontal red lines. To the left and right of this central column are large, red, stylized brackets that span the height of the four labels, indicating that the matrices are organized by barrier type and duration. The entire diagram is set against a dark gray background.

Permanent

10 Year Barriers

5 Year Barriers

3 Year Barriers

# Barrier Crime Matrices

- On 11/29/2022, you were issued a notice of a substantiated finding by the Office of Children's Services. This is a 10 year barrier crime or condition. For questions regarding this substantiation barrier under 7 AAC 10.905(f)(3), please contact the Office of Children's Services (907)465-2213.
- On 12/17/2018, you were issued a notice of a Child in Need of Aid probable cause finding and temporary custody order by the courts in Anchorage, Alaska. This is a 10 year barrier crime or condition. For questions regarding this probable cause finding and temporary custody order barrier under 7 AAC 10.905(f)(3), please contact the Office of Children's Services (907)465-2213.
- On 1/24/2023, you were issued a notice of a Child in Need of Aid probable cause finding and temporary custody order by the courts in Anchorage, Alaska. This is a 10 year barrier crime or condition. For questions regarding this probable cause finding and temporary custody order barrier under 7 AAC 10.905(f)(3), please contact the Office of Children's Services (907)465-2213.
- On 10/7/2023, you were charged with AMC8.10.010(B)(1) Assault by the courts in Anchorage, Alaska. This is equivalent to AS 11.41.230 Assault in the Fourth Degree, a barrier under 7 AAC 10.905(d)(1)(A). This is a 5 year barrier crime or condition. As this charge has been identified as having a missing disposition, it will remain a barrier under 7 AAC 10.905 until a final disposition is received and reviewed for a final determination.

# Barrier Crimes 7 AAC 10.905

- ATTEMPT, SOLICITATION, AND CONSPIRACY
- OFFENSES AGAINST THE PERSON
- OFFENSES AGAINST PROPERTY
- OFFENSES AGAINST THE FAMILY & VULNERABLE ADULTS
  - Examples: OCS Substantiated Findings, Child Neglect, etc.
- OFFENSES AGAINST PUBLIC ADMINISTRATION
- OFFENSES AGAINST PUBLIC ORDER
- OFFENSES AGAINST PUBLIC HEALTH AND DECENCY
- CONTROLLED SUBSTANCES
  - Examples: Heroin, Cocaine, etc.
- IMITATION CONTROLLED SUBSTANCES
  - Examples: Imitation Bath Salts from overseas, mail in orders.
- OTHER CRIMES & CONDITIONS



# Barrier Conditions

- 10 year barriers & more stringent crimes
- Restitution
- More Stringent Federal Prohibitions may impose longer periods of time





# Background Check Process

Background Check Application includes:

- Fingerprints
- Online application – My Alaska
- Fees

Providers can apply for the background check



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Health

### DIVISION OF HEALTH CARE SERVICES Background Check Program

4601 Business Park Blvd., Bldg K  
Anchorage, Alaska 99503  
Main: 907.334.4475  
Fax: 907.269.3488

January 08, 2024

CERTIFIED MAIL: [REDACTED]



### NOTICE OF BARRING CONDITION(S)

**IMPORTANT: THIS NOTICE CONTAINS TIME SENSITIVE INFORMATION. FAILURE TO READ AND ACT PROMPTLY MAY RESULT IN A WAIVER OF YOUR RIGHTS.**

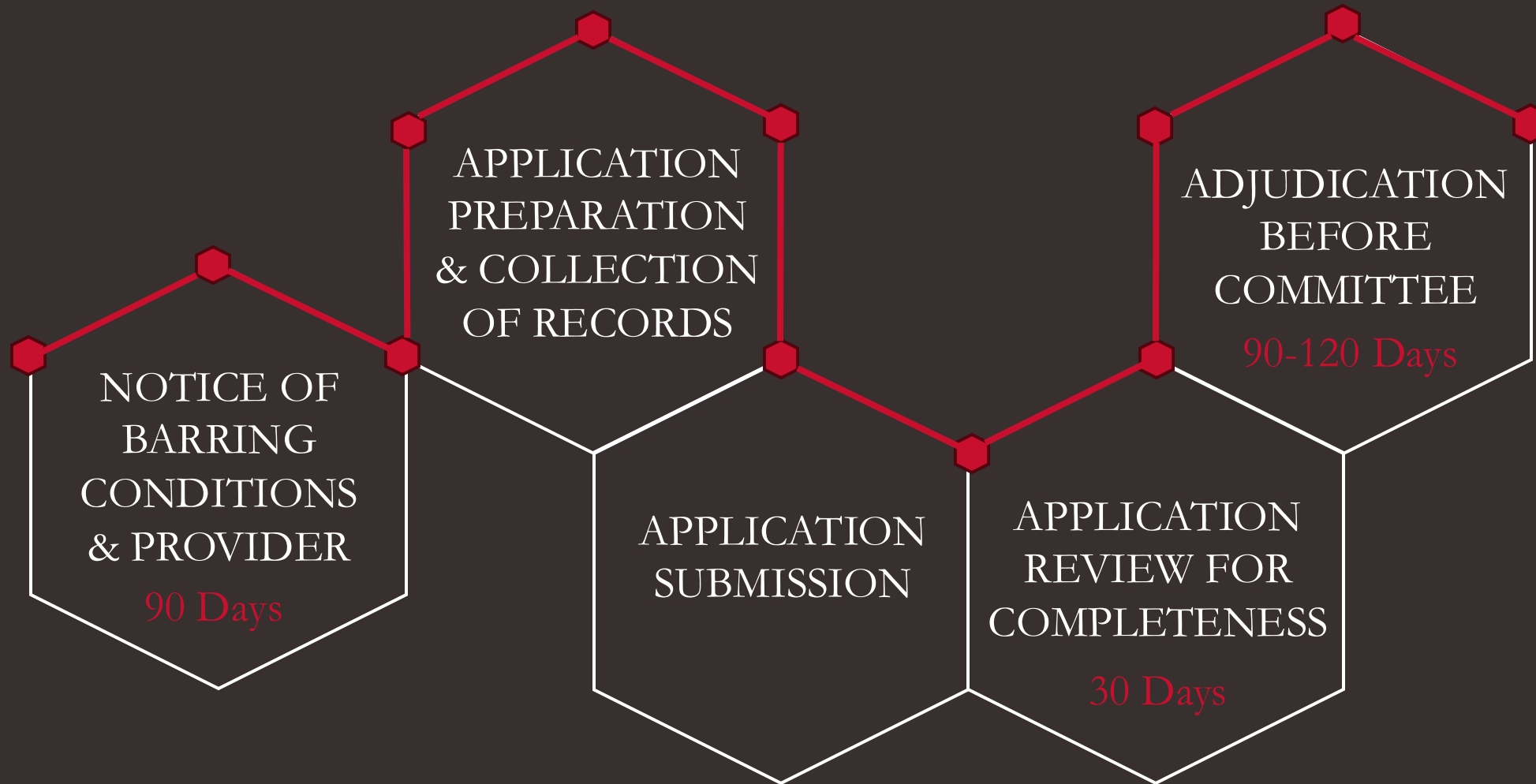
Re: Request for Background Check Number [REDACTED]

Dear [REDACTED]

The Department of Health, Division of Health Care Services, Background Check Program (BCP) has completed a review of your background check for association with NANA Management Services - Anchorage Pioneer Home. You have been issued a Not Eligible determination under AS 47.05.300-.390 and 7 AAC 10.010 – 10.990.

The results of this background check identified the existence of the following barrier crime(s) or condition(s):

# Timeline



# Timeline Continued

The application process can take up to 120 days:

- The Oversight Division has 30 days to review your application to determine if it is complete.
- If your application is found to be incomplete, the Oversight Division will contact you for additional information.
- If your application is found to be complete, the Division will send their recommendation to the Variance Committee. This next level of review may take up to 30 days.
- The Variance Committee will send their combined recommendation to the Department of Health/Department of Family and Community Services Commissioner's Office. The Commissioner's Office has 30 days to make their decision.

\*You will not be notified when your application is sent to each level of review\*



# What Does a Variance Application Require?

- Completed Variance Application. (Form)
- Rationale for granting a variance. (Declaration/Affidavit, and Letters of Recommendation)
- Summary of any mitigating circumstance regarding the barriers. (Declaration/Affidavit)
- A demonstration of how the health, safety, and welfare of recipients of services will be adequately protected. (Declaration/Affidavit & Supporting Docs)
- Evidence of the individual's present fitness. (Letters of Recommendation, Certificates of Completion for treatment/rehabilitation programs)
- Age of the individual at the time of the offense, problem, or circumstance.
- Amount of time that has elapsed since the most recent offense.

# Records

- Records related to the barrier crime/condition
- Any protective order(s) issued or filed.
- Conviction or judgement records.
- Indictment or charging documents.
- Records regarding if the applicant has been charged with a crime, without subsequent conviction.
- Records regarding if the applicant has been charged with a crime that was reduced to a lesser charge.
- Records regarding if the applicant has been charged with a crime for which a suspended imposition of sentence was granted by the court.

# Records Continued

- Incarceration records
- A copy of the order from the local, state, or federal jurisdiction that released the individual from incarceration.
- Any terms and conditions of parole.
- The extent, nature, and seriousness of the following:
  - The individual's offense and past criminal record.
  - A behavioral health problem if it exists.
  - A domestic violence problem if it exists.

# Letters of Recommendation

- At least two letters of recommendation from credible persons.
- Individuals must be aware of the applicant's background history, behavioral health problem, or DV problem, and who would, despite that knowledge, recommend that a variance be granted.
- Letters must be from persons who are unrelated to the individual for whom the variance is requested and who are not associated with a provider who submitted the request for a variance



# Position of Employment

- Information related to job responsibilities that would be performed.
- Hours and days of service.
- Whether the individual would be in contact with recipients of services.
- Plans for supervision, including whether the individual would be subject to direct supervision while on the premises during hours of operation.
- Résumé with list of duties and skills & Employment References
- GED/Diploma/Degrees
- Certifications/Licenses

# Documentation to Demonstrate Avoiding Risk of Being a Repeat Offender

- Evidence of risk reduction/education/training
- A statement from the individual requesting a variance that describes all actions that the individual has taken to reduce the risk of reoffending, including proof of active participation in or completion of any treatment program required by a court. (Personal Statement)
- Any evidence of rehabilitation, prevention, or treatment efforts.
- Evidence that the individual is licensed under AS 08 or became licensed after the individual was convicted of the offense or after the department under 7 AAC 10.915 determined a barrier condition to exist.

# Records/Organization

## VIA EMAIL

State of Alaska  
Department of Health & Social Services  
C/O Health Facilities Licensing & Certification  
4601 Business Park Boulevard, Building K  
Anchorage, Alaska 99503

Re: Variance Request Application  
Applicant: Insert Name (A/k/a Insert Name)  
DOB:

### Forms:

- Background Check Variance Request Application Form
- Personal Statement of Insert Name

Dear Adjudicator:

This letter is submitted in support of my application for a Variance from the State of Alaska, Department of [Health](#) and Social Services. Please find attached the following supporting documentation pursuant to my application:

### Professional Records:

- Exhibit 1: Copy of [Applicant's Name] Résumé
- Exhibit 2: Copy of [Applicant's Name] Licensing
- Exhibit 3: Copy of State of Alaska Fingerprint Record Report requested by [Applicant's Name] previous employer, [Employer Name] dated [Date]
- Exhibit 4: Copy of State of Alaska, Department of Public Safety Criminal History Record requested by [Applicant's Name] previous employer, [Employer Name] dated [Date]

### Information on the Employment Sought:

- Exhibit 5: Job Description, Hire Letter [Detail based on the particular position of employment sought.]

# Application Form



## Department of Health BACKGROUND CHECK VARIANCE REQUEST APPLICATION

All variance request sections, and subsections of the Background Check Variance Request Application must be answered, and all required information attached. If any section and/or subsection is left blank or any other requested information is not included in the variance request, your request may be denied. Please double check to make sure all information is attached. Should you have any questions regarding the completion of a variance request, please contact the employer's/facility's oversight agency responsible for their licensing, certification, approval or finding of eligibility to receive payments for assistance.

### Variance Request Application Deadlines (see 7 AAC 10.930 Request for a variance):

Variance request applications must be submitted to the Division office responsible for the employer's/facility's licensing, certification, approval, or finding of eligibility to receive payments. The request must be submitted no later than 90 days after the applicant and/or employer's/facility's receives notice that a barrier crime or condition exists for an individual or no later than 90 days after the Department denies a request for redetermination, if applicable. Applications can also be submitted to: [bcpvariance@alaska.gov](mailto:bcpvariance@alaska.gov).

### General Information:

The Department will not grant a variance for a crime or civil finding for which federal law prohibits certain approvals, or restricts payment of benefits, during the most stringent barrier period set by federal law for that crime or civil finding. If you have questions about federal barriers, please direct those questions to [bcpvariance@alaska.gov](mailto:bcpvariance@alaska.gov) when you submit your application.

Final decisions on applications for background check variances are made by the Commissioner of the Department of Health or their designee. Prior to review by the Commissioner or their designee, applications for background check variance are reviewed by a representative from the applicable oversight division as well by a review committee appointed by the Commissioner. The review committee may request you to appear in person or by telephone for an interview. If, after looking at all the of available information, the review committee determines that the health, safety, and welfare of recipients of services will be adequately protected, the review committee will recommend that the Commissioner or their designee grant approval on the request for a background check variance. If the review committee determines that the health, safety, and welfare of recipients of services will not be adequately protected, the review committee will recommend that the Commissioner or their designee will deny the request for a variance. If you are identified with a permanent barrier crime and/or condition, the review committee must send its recommendation to the director of the oversight agency for an additional recommendation and comments before it is sent to the Commissioner or their designee for a final decision.

All decisions of approval, with or without conditions, must be posted in a conspicuous place where they can be readily viewed by persons interested in obtaining the services offered by the employer/facility.

### APPLICATION

**\*\*All information must be legible and must include all relevant information as stated in the variance request application \*\***

#### 1. I'm seeking a variance to:

- ☐ Become employed/volunteer with an employer or to continue my employment/volunteering with an employer.
- ☐ Become a household member who will reside in a licensed facility.
- ☐ Other (please describe):

#### 2. Who is the Oversight Division for the variance you are seeking?

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> <b>Behavioral Health</b><br>*Behavioral Health Treatment<br>*Case Management<br>*Residential Chemical Treatment<br>*Substance Use Treatment | <input type="checkbox"/> <b>Health Facilities Licensing and Certification</b><br>*Ambulatory Surgical Center<br>*End Stage Renal Disease<br>*Outpatient Physical, Speech, and/or Occupation Therapy<br>*Freestanding Birth Center<br>*Home Health Agency<br>*Hospice Agency<br>*Hospital<br>*Nursing Facility<br>*Rural Health Clinic (including Frontier Extended Stay Clinic) | <input type="checkbox"/> <b>Residential Licensing</b><br>*Assisted Living Home<br>*Residential Child Care Facility |
| <input type="checkbox"/> <b>Senior and Disabilities Services</b><br>*Home and Community-Based Waiver Services<br>*Personal Care Agency                               | <input type="checkbox"/> <b>The Child Care Program Office</b><br>*Child Care Facilities   |  |



# Personal Statement

7. **Attach an applicant's detailed statement of any and all mitigating circumstances that were involved at the time of the offense. This should include information regarding what happened prior to, during and after the barrier crime or condition.**
- ☐ I have attached a detailed statement regarding the specific barrier crime and/or condition.
  - ☐ I have not attached a detailed statement regarding the specific barrier crime and/or condition. Please explain why the documentation is not attached:

# Personal Statement

## PERSONAL STATEMENT OF [REDACTED]

1. I am submitting this Personal Statement in support of my application for a Variance from the State of Alaska in the hopes that my application may be approved so that I can work as a Peer Support Specialist at Genesis Recovery Services Inc. In this Personal Statement, I will tell you about my life, and explain the circumstances surrounding my criminal history. I will also explain what I have done since my conviction to improve my life, rehabilitate myself, and also what I hope to do in the future at Genesis Recovery.
2. I am a grateful recovering addict. I have 2 years, 6 months, and 18 days clean today. I was born in Juneau, Alaska. I was 9 months old when my parents moved to Anchorage, Alaska. I grew up mostly living with my Mom. My early childhood was around drugs and alcohol. My parents were both drug addicts and alcoholics. Some of my earliest memories I remember them either shooting up drugs and always dinking. I am an only child. I did have moments where I would stay with my Grandma and somewhat led a normal childhood while I stayed with my Grandma. I didn't have to do chores, I wasn't really disciplined. I didn't have to go to school if I didn't want to.
3. I eventually started smoking cigarettes, drinking alcohol, and trying marijuana at the age 9. I would steal my parents' drugs, alcohol, and cigarettes. I would often just start skipping school, sneaking out at night and go "car hopping". I was going to parties and drinking more and more than I started to do other drugs by the time I was 13. I started using LSD, mushrooms, and crack cocaine. Once I started smoking crack, I ran away more, I completely stopped going to school.

# Submission & Adjudication

**From:** [REDACTED]  
**To:** [Haley Dampier](#)  
**Subject:** [REDACTED] : Background Check Application Assigned – [REDACTED]  
**Date:** [REDACTED]

**CAUTION:** This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

[REDACTED]  
----- Forwarded message -----

**From:** HSS-HCS-BCU-Background Check Unit Variance Committee (HSS sponsored)  
<[bcpvariance@alaska.gov](mailto:bcpvariance@alaska.gov)>  
**Date:** Fri, Oct 13, 2023, 11:23 AM  
**Subject:** Background Check Application Assigned – BCV #19983  
**To:** [REDACTED]  
**Cc:** HSS-HCS-BCU-Background Check Unit Variance Committee (HSS sponsored)  
<[bcpvariance@alaska.gov](mailto:bcpvariance@alaska.gov)>

Good morning,

This email is to confirm your background check variance application has been assigned to Behavioral Health. They have 30 days to conduct their review of your application and make a recommendation. Your assigned variance ID is 19983.

# Adjudication



## VARIANCE APPROVAL DECISION

Employer/Facility Name:

Background Check Number:

Variance Identification Number:

Barrier crime(s) and/or conditions(s) for which the variance is requested:

- Termination of Parental Rights

The Department of Health Commissioner's Office:

Approves this variance with no conditions.

This variance approval expires:

None\*

A handwritten signature in black ink, appearing to read "Daniel Phelps II".


Daniel Phelps

Department of Health, Commissioner's Office

### NOTICE:

The applicant must be hired by the employer/facility indicated on this decision within 100 days or transfer this variance decision to a new employer/facility within 100 days. If the applicant fails to be hired by an employer/facility within the required timeframe, this variance becomes immediately invalid without prior notice in compliance with 7 AAC 10.935 (m).\*

This decision must be publicly posted by the employer/facility in compliance with 7 AAC 10.940.



“ANJCs time and commitment to help me get the application done gave me hope though. Today I work at the Arc Of Anchorage as a peer support specialist. I work on the residential side. I have an amazing team, a set schedule, 401k Paid time off. Things I was only dreaming about before. This program could be advertised more as I know firsthand that there are more people with the same background and story. I believe in change and am very passionate about helping people who, like me, want change. ANJC held no judgment and believed in me when I wasn't able to. 800 pages of my past was hard to get through, but it isn't impossible with people like those at ANJC. ”

– Laura Setuk



# ANJC's Service Area



People

Tribes

Education  
&  
Outreach

# Tribal Justice

- Training/Technical Assistance to Tribes and Tribal Justice Systems
- Resources and Facilitation Representing Alaska Tribes in child welfare cases
- Alaska Intertribal Technical Assistance Working Group on Special
- Tribal Criminal Jurisdiction



# Survivor Services

- Integrated legal services with case management
- Culturally aware services for survivors and victims of crimes:
  - DV/SA
  - Human Trafficking





# Thank you!

2550 DENALI STREET

11TH FLOOR

(907) 793-3550

ANJC.ORG

