

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Distribution: X, Z and L

POLICY GUIDE 2010.02

DENIAL OF AN APPLICATION BASED ON A BACKGROUND CHECK

DATE: July 29, 2010

TO: Rules and Procedures Bookholders, DCFS and Private Agency Licensing Staff

FROM: Erwin McEwen, Director 

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform Department and Purchase of Services (POS) licensing staff of the procedures and review process to be offered prior to denying a license based on a background check.

II. PRIMARY USERS

The primary users of this policy guide are Department and POS licensing staff.

III. NOTICE OF INTENT TO DENY AN APPLICATION

A decision to deny an initial application based upon a background check shall be made by the licensing representative with the review and approval of the licensing supervisor. "Licensing representative" and "licensing supervisor" includes Department and POS staff that license agencies and institutions, day care homes and centers, and foster homes, and their supervisors.

Before a licensing representative makes a decision to deny an application for a license based on a background check, the applicant shall be informed, in writing, of the reason for the intended action. The licensing representative shall complete the **CFS 719-1, Notice of Intent to Deny Initial Child Care Application Based on Background Check**, and shall specify in the notice one or more of the following reasons for the intended action:

- A person subject to a background check has been convicted of one or more of the crimes listed in the Child Care Act of 1969, as amended, which bar licensure, and which, after considering all of the factors listed in Part 385. Appendix A, Background Checks, provides sufficient cause to deny the application.



- A person subject to a background check has been identified as the perpetrator of an indicated report of child abuse or neglect which, after considering all of the factors listed in Part 385.50, Background Checks, provides sufficient cause to deny the application.
- A person subject to a background check has been convicted of one or more crimes not listed in the Child Care Act as a bar to licensure, but which, after considering all of the factors listed in Part 385.60, Background Checks, provides sufficient cause to deny the application.

For each reason selected, the licensing representative shall identify each person that has been convicted or who has been identified as the perpetrator of child abuse or neglect. The **CFS 718, Authorization for Background Check** has been amended to inform the applicant that the Department may share background check results with the licensing applicant.

The **CFS 719-1** informs the applicant of the opportunity to request a review by the Central Office of Licensing. (Note: The applicant is not required to request a review by the Central Office of Licensing.)

The licensing representative shall submit the completed **CFS 719-1** to the licensing supervisor for review and approval. The licensing supervisor shall review the **CFS 719-1** within 5 days, and approve it or return it to the licensing representative with instructions.

When approved, the licensing supervisor shall sign the **CFS 719-1** and return it to the licensing representative. The licensing representative shall send the signed **CFS 719-1** to the applicant by regular mail. Copies of the **CFS 719-1** shall be sent to the licensing supervisor and placed in the license application record.

When the applicant requests a review, in writing, within 14 days from the date on the notice (see Section IV(a), below), the chairperson of the Central Office of Licensing review committee shall notify the licensing representative and licensing supervisor, by DCFS Outlook e-mail.

When the applicant does not request a review within 14 days from the date on the notice, the licensing supervisor shall direct the licensing representative to prepare a **CFS 719-3, Denial of License Based on Background Check**.

The licensing representative shall submit the completed **CFS 719-3** to the licensing supervisor for review and approval. The licensing supervisor shall review the **CFS 719-3** within 5 days, and shall approve it or return it to the licensing representative with instructions.

When approved, the licensing supervisor shall sign the **CFS 719-3** and return it to the licensing representative. The licensing representative shall send the signed **CFS 719-3** to the applicant by certified mail. Copies of the **CFS 719-3** shall be sent to the licensing supervisor and placed in the license application record.

Note: In this Policy Guide, “Day” means a calendar day, unless otherwise specified.

IV. REVIEW BY THE CENTRAL OFFICE OF LICENSING

a. Purpose

The purpose of the review by the Central Office of Licensing is to give the applicant an opportunity to respond to the basis of the intent to deny the application based upon the background check.

To make a timely request for a review, the applicant must contact the Central Office of Licensing, in writing, within 14 days from the date on the notice.

The applicant shall explain, in writing, his or her reasons for disputing the results of the background check.

The applicant may also submit the following written statements with his/her request:

- When the issue involves an indicated CANTS/SACWIS report, a written statement from the administrator of the child protection division for the Department that the individual named in the report is not the individual in question or that the record has been expunged or amended; or
- When the issue involves a criminal history record, written statements from a law enforcement agency or clerk of the court that the subject of the criminal history record provided to the Department is not the individual in question, or the individual was never convicted of the crimes as alleged in the criminal history record, or the individual was granted a full pardon by the Governor indicating that the person did not commit the crime or that the crime was amended or expunged, or that the information in the criminal history record concerning the existence of the conviction was erroneous.

If the applicant makes a timely written request for this review, the Central Office review committee shall conduct the review within 7 days.

The applicant may withdraw a request for review if the request arrives prior to when the review occurs. (Note: The applicant is not required to request a review by the Central Office of Licensing.)

b. Central Office of Licensing Review Committee

The Associate Deputy Director for Licensing shall appoint two or more professional staff of the Central Office of Licensing to comprise the review committee. The Associate Deputy Director for Licensing shall designate one person to chair the committee, and may designate an alternate chairperson to serve when the chairperson is unavailable.

The Central Office of Licensing shall ensure that all requests for review are delivered to the committee chairperson.

The chairperson shall convene the committee, as needed, to review timely requests for review pursuant to this Policy Guide.

c. Notice of Decision

The Central Office of Licensing review committee shall review the results of the background check and all relevant information and documentation presented by the applicant. The chairperson shall prepare a **CFS 719-2, Notice of Decision after Review by the Central Office of Licensing** when the review is concluded.

Decision options:

- The applicant's background check is clear or contains a criminal conviction that does not affect the applicant's suitability for licensure pursuant to Rule 385, Background Checks;
- The applicant may request a review and waiver of the presumption of unsuitability as provided in Rule 385.50(b)(2); or
- The application is denied based upon a background check. The applicant shall be informed of his/her right to appeal this decision pursuant to Rule 383.80, Appeal of Decision to Deny License or Permit Based on Background Check.

The chairperson shall send the **CFS 719-2** to the applicant by certified mail. Copies shall be sent to each committee member, the licensing representative and licensing supervisor. The licensing supervisor shall ensure that a copy is placed in the license application record.

The Central Office of Licensing shall maintain a complete copy of the review file.

V. NEW AND AMENDED FORMS

New Forms:

- **CFS 719-1 Notice of Intent to Deny Initial Child Care Application Based on Background Check**
- **CFS 719-2 Notice of Decision after Review by the Central Office of Licensing**
- **CFS 719-3 Denial of Application Based on Background Check**

Amended Form:

- **CFS 718 Authorization for Background Check**

VI. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VII. FILING INSTRUCTIONS

File this Policy Guide immediately following Rule 385.80, Background Checks.

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AUTHORIZATION FOR BACKGROUND CHECK

READ INSTRUCTIONS ON REVERSE SIDE AND PRINT ALL INFORMATION

1 CHECK ONE BOX IN EACH SECTION A AND B:

A Applicant/Operator (Person[s] applying to operate a child care facility) Member of Household (age 17 and over) Member of Household (ages 13 to 16) Employee/Volunteer of Household (foster care, day care or group day care home)

Executive Director

B Foster Family Home Day Care Home Group Day Care Home Group Home
 Day Care Agency Day Care Center Child Welfare Agency Child Care Institution/Maternity Center
 Youth Emergency Shelter Adopt Only Home

PERSONAL INFORMATION

Last Name/First Name/Middle Initial _____ Social Security or ITIN Number _____

Maiden and/or Any Names Formerly Used (Last/First/Middle Initial) _____
 I am or will be a foster family household member. Yes No
 I am or will be transporting foster children. Yes No
 If both statements are yes, list your Drivers License number here: _____

2 CURRENT ADDRESS AND TELEPHONE:

Street/Apt.#: _____
 City: _____ State: _____
 Zip Code: _____ County: _____
 Telephone (Including Area Code) _____
 (_____) _____ - _____

Have you lived outside of Illinois in the past 3 years? Yes No
 List all previous addresses for the past five (5) years.
 (Street/Apt.#/City/County/State/Zip Code) _____ Dates From/To _____

Date of Birth (Month/Date/Year)	Age	Place of Birth (City and State)	Citizenship (Country) <input type="checkbox"/> USA <input type="checkbox"/> Other, Specify	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Height Ft. In.	Weight (lbs.)	Hair (color)	Eyes (color)	Skin Tone	Race
_____-_____-____	____	____	____	____	____	____	____	____	____	____

AUTHORIZATION /CERTIFICATION

3 Have you ever been convicted of a criminal offense, other than a minor traffic violation? Yes No
 Have you ever been indicated as perpetrator in a child abuse/neglect investigation? Yes No

I certify that I have read and understood the Authorization/Certification box on the back page of this form.

SIGNATURE _____ DATE _____

BACKGROUND RESULTS	FOR CENTRAL OFFICE OF LICENSING USE
Sex Offender Clearance: _____	SID# _____ Clear _____ Record _____
CANTS Clearance: _____	BC-03 Registered: _____
Illinois State Police Clearance: _____	FBI Sent Out: _____
FBI Clearance: _____	Valid Driver's License: Yes _____ No _____
Transfer Clearances: SO/CANTS: _____ ISP: _____	

TO BE COMPLETED BY SUPERVISING AGENCY

This authorization form will not be processed without completion of this section.

4 Date Fingerprinted: _____ Supervising Agency: _____
 Full Name of Facility _____ Name _____
 Provider ID # _____ Provider ID# _____
 Street Address: _____ Or DCFS Region/Site/Field _____
 City _____ IL ZIP: _____ Name of Licensing Worker _____ Worker ID# _____
 (_____) _____
 Phone Number of Licensing Worker _____

**INSTRUCTIONS FOR COMPLETION OF
CFS 718 - AUTHORIZATION FOR BACKGROUND CHECK**

WHO SHOULD USE THIS FORM: This form must be completed by every person age 13 or older as part of an application to operate or reside in a child care facility, or be employed by or volunteer in a foster care, day care or group day care home.

SECTIONS 1, 2 AND 3 – COMPLETION OF IDENTIFICATION INFORMATION

DCFS or private agency licensing worker must instruct every person subject to a background check to complete the first three section identifying the type of facility and what role they will have at the facility and all personal information. All identifying information must be accurate and complete.

PRINT ALL INFORMATION

- Name: Current and all former names used by the individual must be included. If no other names, write "none."
- Social Security or ITIN No. **THIS FORM WILL NOT BE PROCESSED WITHOUT A COMPLETE SOCIAL SECURITY OR INDIVIDUAL TAXPAYER IDENTIFICATION (ITIN) NUMBER**
- Address: Current and all addresses, including county, where the person has lived in the past five years (If outside of Illinois, check appropriate box)
- Race: Enter all codes that apply
- | | | | |
|-------|---------------------------------------|-------|----------------------------------|
| BL/AA | Black or African American | ASIAN | Asian |
| HISP | Indicate whether the individual is of | NH/PI | Native Hawaiian or Other Pacific |
| ORG | Hispanic origin | | Islander |
| WHITE | White | UNDET | Undetermined |
| AI/AN | American Indian or Alaskan Native | | |

Each Person must answer the question "Have you ever been convicted of other than minor traffic violation?" If yes, an explanation must be provided --- complete with date of the incident(s).

The person completing the identification information must sign and date page 1 of the authorization form.

SECTION 4 - DCFS/PRIVATE AGENCY LICENSING WORKER

The Authorization for Background Check must be submitted to the licensing worker for completion of Section 4 and for forwarding to the DCFS Central Office of Licensing. The licensing worker must check the form for completeness and accuracy, confirm that the person (if age 17 or older) has been fingerprinted, and verify the correct spelling of names alongside a form of identification, such as a driver's license or photo ID.

The licensing representative must complete the following:

- Name of Facility The full name which appears on the license application or the license. (DO NOT USE ACRONYMS)
- Street/City/Zip The site of licensed facility where person is licensed or employed.
- Provider ID # The Provider ID # is required. (The number which appears or will appear on the license certificate for the facility.)
- DCFS Region/Site/field The DCFS Region/Site/Field.
- Supervising Agency Print the name and Provider ID# of Agency which will supervise the facility.

AUTHORIZATION/CERTIFICATION

I authorize the Illinois Department of Children and Family Services to conduct an investigation to determine whether I have ever been charged with a crime and, if so, the disposition of those charges. I authorize the Department to request information and assistance from the U.S. Justice Department and the Illinois Department of Law Enforcement in the conduct of this investigation. I authorize the Department to periodically search the Child Abuse and Neglect Tracking System to determine whether I have been a perpetrator of an "indicated" incident of child abuse or neglect pursuant to the Abused and Neglected Child Reporting Act. If I am applying for a foster home license, I authorize the Department of Children and Family Services to obtain information from those entities to which I had applied for license or supervision of license, regarding licensing violations or removal of children from my home. If I am or will be a member of a foster family household and will be transporting foster children, I authorize the Department to conduct periodic checks of my driver's license and driving record through the Secretary of State. The child abuse and neglect background check and the criminal history investigation may be used for considering an application for license, current or prospective employment, or service as a volunteer in a child care facility. Persons 13-16 years of age signing this form authorize a search of CANTS and LEADS only and are not subject to fingerprinting.

I understand that information obtained as a result of my authorizing this investigation is confidential but may be shared with my employer, prospective employer, the licensing applicant for whom my background check is required or with authorized licensing staff in accordance with applicable state and federal law and DCFS Regulations. I further certify that the information provided on this form is true and correct. I acknowledge that falsification of any information provided above and/or the results of the background check may be full and sufficient grounds to deny the application for licensure or may result in the termination of my employment.

State of Illinois
Department of Children and Family Services

**Notice of Intent to Deny Initial Child Care Facility Application
Based On Background Check**

[Date]

[Applicant's Name]

[Address]

Provider ID#: []

Facility Type: []

The Department intends to deny your application for a license. Please read this carefully.

- A person subject to a background check has been convicted of one or more of the crimes listed in the Child Care Act of 1969, as amended, which bar licensure, and which, after considering all of the factors listed in Part 385. Appendix A, Background Checks, provides sufficient cause to deny your application for licensure.

[Name of Persons]

- A person subject to a background check has been identified as the perpetrator of an indicated report of child abuse or neglect which, after considering all of the factors listed in Part 385.50, Background Checks, provides sufficient cause to deny your application for licensure.

[Name of Persons]

- A person subject to a background check has been convicted of one or more crimes not listed in the Child Care Act as a bar to licensure, but which, after considering all of the factors listed in Part 385.60, Background Checks, provides sufficient cause to deny your application for licensure.

[Name of Persons]

Review by the Central Office of Licensing

Before the decision to deny your application for a license is made, you have the opportunity to request a review by the Central Office of Licensing.

In order to take advantage to this opportunity, you must make a written request within 14 days from the date on the top of this notice to:

Department of Children and Family Services
Central Office of Licensing
406 E. Monroe St., Station 60
Springfield, Illinois 62701

In your written request, you should explain your reasons for disputing the results of the background check. In your written request, you may also submit:

- when the issue involves an indicated CANTS/SACWIS report, a written statement from the administrator of the child protection division for the Department that the individual named in the report is not the individual in question or that the record has been expunged or amended; or
- when the issue involves a criminal history record, written statements from a law enforcement agency or clerk of the court that the subject of the criminal history record provided to the Department is not the individual in question, or the individual was never convicted of the crimes as alleged in the criminal history record, or the individual was granted a full pardon by the Governor indicating that the person did not commit the crime or that the crime was amended or expunged, or that the information in the criminal history record concerning the existence of the conviction was erroneous.

This review provides you with an opportunity to present any information that you believe can or should help the Department make the most accurate decision regarding the information involving the person(s) listed above. However, if you choose not to request a review, the decision to deny or approve your application will be made without further input from you.

If you choose to request a review, a committee shall review the results of the background check for the person(s) listed above and all written information submitted by you in your request. You will be given written notice of the decision and an explanation of the administrative appeal process. If you do not request a review, you will be sent written notice of the Department's final decision and an explanation of administrative appeal process.

You retain your right to appeal the Department's final decision whether or not you participate in this review by the Central Office of Licensing.

Sincerely,

[Licensing Representative's Name]
Licensing Representative
[Agency]
[Address]
[Phone]

[Licensing Supervisor's Name]
Licensing Supervisor

cc: Central Office of Licensing

State of Illinois
Department of Children and Family Services

Notice of Decision After Review By the Central Office of Licensing

Certified Mail

[Date]

[License Applicant's Name]
[Address]

Provider ID#: []
Facility Type: []

Subject: Background Check for [Relevant Persons Name(s)]

The Review Committee for the Central Office of Licensing has examined the results of the background check and all written information submitted by the above-named license applicant in support of the request for a review. The decision of the Review Committee is as follows:

- The background check is clear or contains a criminal conviction that does not affect the applicant's suitability for licensure pursuant to Rule 385, Background Checks.
- You (applicant) may request a review and waiver of the presumption of unsuitability as provided in Rule 385.50(b)(2) [89 Ill.Admin.Code 385.50(b)(2)].
- The above-referenced child care facility application is hereby denied based upon the background check. You have the right to appeal this decision. Should you choose to appeal, your request must be in writing and must be postmarked within 10 days after the date of this notice. Send your appeal to:

Administrative Hearings Unit,
Department of Children and Family Services
406 E. Monroe St., Station #15
Springfield, IL 62701

Date: _____

Chair, Administrative Review Committee

cc: Committee Members
[Licensing Supervisor's Name]
[Licensing Representative's Name]

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CFS 719-3
7/2010

State of Illinois
Department of Children and Family Services

Denial of License Based on Background Check

Certified Mail

[Date]

[License Applicant's Name]
[Address]

Provider ID#: []
Facility Type: []

Subject: Background Check for [Relevant Persons' Name(s)]

The above-referenced child care facility application is hereby denied based upon the background check for the above-named individual(s). You have the right to appeal this decision. Should you choose to appeal, your request must be in writing and must be postmarked within 10 days after the date on this notice. Send your appeal to:

Administrative Hearings Unit,
Department of Children and Family Services
406 E. Monroe St., Station #15
Springfield, IL 62701

[Licensing Representative's Name]
Licensing Representative
[Agency]
[Address]
[Phone]

[Licensing Supervisor's Name]
Licensing Supervisor

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