

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER d: LICENSING ADMINISTRATION

**PART 385**  
**BACKGROUND CHECKS**

Section	
385.10	Purpose
385.20	Definitions
385.30	Applicability of This Part
385.40	Authorization for Background Checks
385.50	Child Abuse or Child Neglect
385.60	Criminal Convictions and Pending Criminal Charges
385.70	Disposition of Background Checks
385.80	Appeal of Decision to Deny License or Permit Based on Background Check Information
385.90	Records to be Maintained by the Child Care Facility
385.100	Confidentiality of Background Check Information
385.110	Severability of This Part
385.APPENDIX A	Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives
385.APPENDIX B	Matrix of Persons Subject to Background Checks Under Part 385

**AUTHORITY:** Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10]; Section 5(a)(3)(A) and (F) and (v) of the Children and Family Services Act [20 ILCS 505/5(a)(3)(A) and (F) and (v)]; and Section 55a(34) of the Civil Administrative Code [20 ILCS 2605/55a(34)] Adam Walsh Child Protection and Safety Act (P.L. 109-248).

**SOURCE:** Emergency rules adopted at 10 Ill. Reg. 19123, effective October 29, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 6398, effective March 31, 1987; amended at 13 Ill. Reg. 5917, effective May 1, 1989; emergency amendment at 20 Ill. Reg. 3930, effective March 1, 1996, for a maximum of 150 days; modified in response to Joint Committee on Administrative Rules objection at 20 Ill. Reg. 5712; emergency expired July 28, 1996; amended at 21 Ill. Reg. 4444, effective April 1, 1997; emergency amendment at 28 Ill. Reg. 1167, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 13432, effective September 30, 2004; amended at 33 Ill. Reg. 4117, effective February 27, 2009; amended at 36 Ill. Reg. 2136, effective January 30, 2012; amended at 37 Ill. Reg. 12827, effective July 30, 2013; amended at 39 Ill. Reg., effective March 25, 2015.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.10 Purpose**

- a) The purpose of this Part is to ensure the safety and well being of children cared for in an unlicensed relative home or in any facility subject to licensing by the Department of Children and Family Services by requiring that the operators of child care facilities and other persons subject to background checks, as defined in Section 385.20, be screened for a history of child abuse or child neglect, prior criminal convictions or pending criminal charges.
- b) Each owner of a for-profit child care facility is required to certify, under penalty of perjury on a form provided by the Department, that he or she is current or not more than 30 days delinquent in complying with a court order for child support.
- c) In addition, the Department may require service providers who have access to children as part of their duties to authorize a background check, as required by 89 Ill. Adm. Code 357 (Purchase of Service).

(Source: Amended at 36 Ill. Reg. 2136, effective January 30, 2012)

**Section 385.20 Definitions**

"Access to children" means a child care facility employee's duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person who assists a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Database (NCID) when applicable for prospective foster and adoptive parents; and a check of the Child Abuse and Neglect Tracking System (CANTS/SACWIS) and other state child protection systems, or the National Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Illinois Department of Children and Family Services within the Statewide Automated Child Welfare Information System (SACWIS).

*"Child" means any person under 18 years of age.* (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

*"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under Section 4 of the Child Care Act of 1969. (Section 2.05 of the Child Care Act of 1969) A child care facility also means those described in the Child Care Act, including but not limited to any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility or youth emergency shelter.*

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

*"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.* (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

"Date of notice" means the date of the written notice to a license holder that all persons subject to background checks, as defined in this Section, must authorize such checks and submit to fingerprinting, if required.

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

*"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)*

"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee" means any staff person employed by a child care facility, and includes any substitute or assistant. This definition includes administrative, professional and other support staff who have access to children.

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interests of the child.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of any person convicted of a felony sex crime or an attempt to commit a felony sex crime operated and maintained by the Illinois State Police.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

*"License applicant" means, for purposes of background checks, the operator or person with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969)*

"Licensing entity" means the Department or a supervising agency recommending the license or processing the employment application.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Member of the household" means a person who resides in a family home as evidenced by factors, including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address. . In addition, a member of the household includes stepchildren and/or children relative to the foster parent or child care provider who frequent the home as part of regular visitation but do not reside in the home full-time.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act of 1969. A child care facility, child welfare agency, or day care agency may consist of distinct units, divisions, or departments of a multi-function agency. In a multi-function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"National Crime Information Database" or "NCID" means the National Crime Information Center and its incorporated criminal history databases.

"National Registry" means an electronic national registry of substantiated cases of child abuse and neglect supplied by the states, created by the Secretary of Health and Human Services in consultation with the Attorney General.

"National Sex Offender Registry" means an electronic national registry, operated and maintained by the United States Department of Justice, of any person convicted of a felony sex crime or an attempt to commit a felony sex crime in any state.

"Non-Licensed Service Provider" *means an individual or entity that contracts with the Department to provide child welfare services that enable the Department to perform its duties under the Abused and Neglected Child Reporting Act [325 ILCS 5], the Child Care Act of 1969 [225 ILCS 10], and the Children and Family Services Act [20 ILCS 505]. [225 ILCS 10/2.28]* It also includes a person who provides child care in his or her home to a child for whom the Department is legally responsible on a regular basis, such as weekly or several times per week, and cares for no more than 3 children under the age of 12 or receives only children from a single household for less than 24 hours per day. The three children include the family's own children or adopted children and any other persons under the age of 12, whether related or unrelated to the service provider. (See 89 Ill. Adm. Code 377.3(d).)

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- all direct child welfare agency employees (see 89 Ill. Adm. Code 412);
- any person who is used to replace or supplement staff;
- any person who has access to children, as defined in this Section; and
- any person, including non-licensed service providers, who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code 357 (Purchase of Service).

If the child care facility operates in a family home, the license applicants and all members and prospective members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

Non-licensed service providers who, on a regular basis, provide care in the provider's home to a child for whom the Department is legally responsible and all members of the household age 13 or over are subject to background checks.

For a final placement decision in a relative home, the relative and all members of the household age 18 and over are subject to criminal background checks (see 20 ILCS 505/5(v-1)).

"Prospective member of the household" means a person age 13 or older who plans to move into a licensed foster family home.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services, replacing the CANTS system.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

"Seasonal child care program" means a child care facility that operates a seasonal program, such as summer-only or migrant Head Start program, that is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

"Substitute" means a permanent or temporary employee who is used to replace or supplement regular staff.

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license exempt agency, or the Department.

(Source: Amended at 39 Ill. Reg., effective March 25, 2015)

**Section 385.30 Applicability of This Part**

a) Applicability

All licensed child care facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks as defined in Section 385.20.

b) License Renewals

A child care facility license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois Sex Offender Registry, and criminal history) have been received for the operator of the child care facility. However, if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks, as defined in Section 385.20, and a check of the CANTS/SACWIS and Illinois Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks.

c) Scope of Background Checks

1) All persons subject to background checks pursuant to this Part shall be processed through the CANTS/SACWIS, the Illinois Sex Offender Registry and LEADS. Fingerprints of all persons age 18 and over shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by the Department for a criminal history check.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- 2) In addition, foreign nationals who have not resided in Illinois for all of the preceding 3 years shall submit to their prospective employer (if seeking employment) or licensing representative (if seeking a license to operate a child care facility) a copy of their valid passport and current visa. A copy of the valid passport and current visa shall be attached to the authorization for background check submitted to:

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

All facsimile transmissions shall be sent to the Employment FAX Line at (217)785-6368.

- 3) In addition, each owner of a for-profit corporation, as a condition of license renewal, must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* [5 ILCS 100/10-65(c)]
- 4) Fingerprints for the following persons age 18 and over shall be submitted to the Federal Bureau of Investigation (FBI) for a search of its records for evidence of prior criminal activity:
- A) all applicants for foster family home licensure and members of the household;
  - B) all relative caregivers and members of the household prior to a final placement decision in a relative home [20 ILCS 505/5(v-1)];
  - C) persons who have a record of criminal activity that may impact their suitability for licensure/employment by their own acknowledgment or according to the records of the Illinois State Police;
  - D) persons who have resided outside the State of Illinois for any part of the preceding three years; and
  - E) a non-licensed service provider who has access to children as defined in Section 385.20 and all members of the provider's household age 13 and over;



**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- 5) For *prospective foster or adoptive parents or other adult living in the home who resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry and the National Sex Offender Registry.* [20 ILCS 505/5(v-2)]

d) A Condition of Employment

- 1) As a condition of employment in a licensed child care facility in a position that allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.
- 2) Complete, signed authorizations for background checks must be submitted to:

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

All such authorizations must be postmarked within two business days after the person's employment or use in a role as replacement or supplemental staff. All facsimile transmissions shall be sent to the Employment Fax Line at (217) 785-6368.

e) Child Care Facilities that Operate Within a Family Home

If the child care facility operates in a family home, adult members of the household age 18 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the child care facility is in operation.

f) Programs Operated Under the Auspices of Child Welfare or Day Care Agencies  
The background check requirements of this Part apply to:

- 1) employees of a child welfare agency who are involved in the placement in, licensure of, or supervision of foster family or adoptive homes, relative homes, group homes, child care institutions, youth emergency shelters, or independent living arrangements;
- 2) employees of a child welfare agency or day care agency who are involved in the licensure or supervision of licensed day care homes; and
- 3) persons used as replacement or supplemental staff identified in subsection (f)(1) or (2).

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

g) Service Providers

As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357 (Purchase of Service), the Department may require a person who provides services that allow unsupervised access to children, including non-licensed service providers, to authorize a background check under this Part.

h) Issuance of Permits

A permit may be issued when:

- 1) the facility operator has cleared a complete background check (criminal history, CANTS/SACWIS, and Illinois Sex Offender Registry);
- 2) if a for-profit corporation or other for-profit legal entity, the owner has certified that he or she is current or not more than 30 days delinquent in complying with a child support order;
- 3) all other persons subject to background checks have been fingerprinted (if required), as verified by a fingerprint receipt, and have obtained their CANTS/SACWIS, and Illinois Sex Offender Registry clearances; and
- 4) the facility is in compliance with all other applicable licensing requirements for issuance of a permit.

i) Work Study Students

No criminal history check is required unless work study students are used as replacement or supplemental staff, as defined in Section 385.20. However, CANTS/SACWIS and Illinois Sex Offender Registry checks must be completed for all work study students.

j) Volunteers

No background check (CANTS/SACWIS, Illinois Sex Offender Registry, criminal history) is required unless volunteers are used as replacement or supplemental staff, as defined in Section 385.20.

k) Parental Involvement

Parental involvement in a child care facility program does not require a background check unless the parent is used as replacement or supplemental staff, as defined in Section 385.20. Nothing in this Part is intended to prohibit a parent from being left alone unsupervised with only his or her own children.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

l) Responsibility for Cooperation

Child care facilities shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:

- 1) death in the family of the person; or
- 2) serious illness of the person or illness in the person's immediate family; or
- 3) weather or transportation emergencies.

m) Limitations on Criminal Offenders

Persons age 18 and over who have been convicted of committing or attempting to commit the offenses in Section 385.60(a) or (b) (when applicable) and when the Department becomes aware of persons age 13 and over who have been tried as an adult and convicted for the crimes identified in Section 385.60(a) or (b) shall not:

- 1) receive a license from the Department to operate a child care facility or have such a license renewed;
- 2) be employed by a child care facility licensed by the Department in a position which allows access to children;
- 3) be a member of the household in a family home in which a child care facility operates; or
- 4) obtain a contract or agreement from the Department to provide services which allow access to children if the requirement for such background checks is a condition of the contract or agreement.

n) Limitations on Perpetrators of Child Abuse/Neglect

Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in Section 385.50(a) are presumed to be unfit for service that allows access to children. These indicated perpetrators are limited in the same manner as the criminal offenders in subsection (m) unless the Director or designee has waived in writing the presumption of unsuitability. Such waivers may be requested in writing in accordance with Section 385.50(b).

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- o) No Charge for Background Checks

There is no charge to license applicants or licensed child care facilities for the background checks which are required by this Part.

(Source: Amended at 39 Ill. Reg., effective March 25, 2015)

**Section 385.40 Authorization for Background Checks**

**a) Persons Required to Authorize Background Checks**

- 1) All persons (including non-licensed service providers) required to authorize background checks (as defined in Section 385.20) must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the Department.
- 2) Each owner of a child care facility must certify, under penalty of perjury on forms prescribed by the Department, *that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])

**b) Contents of Authorization**

The authorization required by this Section shall be on forms prescribed by the Department and shall include:

- 1) identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;
- 2) a certification under penalty of perjury identifying any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges; and
- 3) authorization for the Department to release the results of the background check to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**c) Employees Absent from Active Duty**

For purposes of this Part only, employees who have been separated from a child care facility licensed by the Department for six months or longer (for reasons other than vacation, sabbatical leave, sick leave or maternity leave) shall no longer be considered current employees. Upon their return to active duty, such individuals shall be required to again authorize a background check pursuant to this Part.

**d) Transfers Between Licensed Facilities**

A facility that hires an employee who has cleared a complete background check consisting of a criminal history check and a CANTS/SACWIS check and a check of the Illinois Sex Offender Registry at a facility licensed by the Department shall submit a new signed authorization of background check for the employee. Such an employee who has cleared a background check as described in this subsection does not need to be fingerprinted again unless the Department specifically requests new prints (e.g., when fingerprints cannot be found).

**e) Operation of Seasonal Programs**

Child care facilities that operate seasonal programs, such as migrant Head Start or other summer-only programs, hire staff on a seasonal basis for work in the program and then discharge or lay off the staff until the beginning of the next season. When the time period between the end of one seasonal program and the beginning of the next program is more than six months, a check of the CANTS/SACWIS and the Illinois Sex Offender Registry must be completed (if the individual has access to children) before the individual begins his or her duties for the next season.

**f) Commingling Not Permitted**

If a child care facility operates within the same building as other agencies or organizations or is part of a multi-function agency that offers services which are not subject to Department licensing, the child care facility shall develop a plan to limit access to children receiving care in the licensed facility by individuals who are not subject to the background check requirements of this Part. The plan shall be approved in writing by the governing body and the supervising licensing agency, before a license is recommended.

**g) Conditional Employment**

Individuals hired to begin employment who have authorized the background check required by this Part may be employed by a child care facility on a conditional basis pending the outcome of the required background check. The form authorizing such a background check shall be submitted to Department of Children and Family Services as indicated in Section 385.30(d)(2).

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**h) Limitations on the Use of Conditional Employees**

Conditional employees shall not be left alone with children outside the visual and auditory supervision of staff until they have cleared a check of CANTS/SACWIS and the Illinois Sex Offender Registry.

(Source: Amended at 39 Ill. Reg., effective March 25, 2015)

**Section 385.50 Child Abuse or Child Neglect**

**a) Indicated Reports of Child Abuse/Neglect**

The Department makes the presumption that an individual who has been determined to be a perpetrator of child abuse or neglect involving the allegations listed below, as defined in Appendix B, Child Abuse and Neglect Allegations, of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect, is not suitable for work that allows access to children.

- 1) Death
- 2) Head injuries
- 3) Internal injuries
- 4) Wounds (gunshot, knife, or puncture)
- 5) Torture
- 6) Sexually transmitted diseases
- 7) Sexual penetration
- 8) Sexual molestation
- 9) Sexual exploitation
- 10) Failure to thrive
- 11) Malnutrition
- 12) Medical neglect of disabled infant
- 13) A single indicated report of child abuse or neglect that resulted in serious injury to the child, regardless of the allegations involved.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**POLICY GUIDE 2018.04**

**RULE 385 BACKGROUND CHECKS**

**DATE:** January 31, 2018  
**TO:** DCFS and Private Agency Licensing Staff  
**FROM:** Beverly J. Walker, Acting Director  
**EFFECTIVE:** Immediately

**I. PURPOSE**

The purpose of this Policy Guide is to inform Department and Purchase of Services licensing staff, as well as holders of a child care facility license, of policy changes related to when a conditional employee shall be allowed to have unsupervised access to children within a licensed childcare facility. The Department will propose amendments to **Rule 385, Background Checks**, to reflect the changes in this Policy Guide.

This Policy Guide is effective immediately.

**II. PRIMARY USERS**

The primary users of this Policy Guide are Department Licensing Staff, POS Licensing Staff and license holders.

**III. BACKGROUND AND SUMMARY**

Department Rule 385 currently has language that allows a conditional employee to have unsupervised access to children in their care, after being cleared through the cursory background checks for history of abuse and/or neglect and the Illinois Sex Offender Registry.

**Section 385.40 Authorization for Background Checks**

- g) **Conditional Employment** Individuals hired to begin employment who have authorized the background check required by this Part may be employed by a child care facility on a conditional basis pending the outcome of the required background check. The form authorizing such a background check shall be submitted to Department of Children and Family Services as indicated in Section 385.30(d)(2).



- h) Limitations on the Use of Conditional Employees** Conditional employees shall not be left alone with children outside the visual and auditory supervision of staff until they have cleared a check of CANTS/SACWIS and the Illinois Sex Offender Registry. (Source: Amended at 39 Ill. Reg., effective March 25, 2015)

#### **IV. NEW REQUIREMENTS FOR COMPLIANCE TO BACKGROUND CHECKS IN RELATIONSHIP TO CONDITIONAL EMPLOYEES**

The Title IV-E Federal Reviewers and the Department's Division of Budget & Finance have directed the Department to adopt standards that include conditional employees having no unsupervised access to children, until all background checks requested have been received and assessed for clearance.

Effective immediately, conditional employees may not have unsupervised access with children served through a licensed facility, until all required background checks have been received and cleared.

#### **V. 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@illinois.gov](mailto:cfpolicy@illinois.gov).

#### **VI. FILING INSTRUCTIONS**

File this Policy Guide immediately following page (14) of **Part 385, Background Checks**.



**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- 14) More than one indicated report involving any of the following allegations, regardless of severity. Or one such report if the incident warrants concern because of the severity or particular circumstances:
- A) Burns
  - B) Poison or noxious substances
  - C) Bone fractures
  - D) Cuts, bruises, welts, abrasions, and oral injuries
  - E) Human bites
  - F) Sprains or dislocations
  - G) Tying or close confinement
  - H) Substance misuse
  - I) Mental and emotional impairment
  - J) Substantial risk of physical injury/environment injurious to health and welfare
  - K) Substantial risk of sexual injury
  - L) Inadequate supervision
  - M) Abandonment/desertion
  - N) Medical neglect
  - O) Lock-out
  - P) Inadequate food
  - Q) Inadequate shelter
  - R) Inadequate clothing
  - S) Environmental neglect

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**b) Assessment of Indicated Reports**

- 1) A person determined to be the perpetrator of an indicated incident of abuse or neglect under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] shall not automatically be denied a license or refused license renewal from the Department because that person has been indicated as a perpetrator of the above allegations or shall not automatically be denied a position which allows access to children in a child care facility licensed by the Department. Rather, the Department or the governing body, as applicable, shall provide the individual an opportunity to present evidence that demonstrates fitness for licensure or employment. Such evidence shall include, but not be limited to:
  - A) the nature of the abuse or neglect with which the individual was identified, including whether the abuse or neglect resulted in serious injury or death to a child or children;
  - B) the circumstances surrounding the commission of the abuse or neglect, including the age of the perpetrator and the children, that would demonstrate unlikelihood of repetition;
  - C) the period of time that has elapsed since the abuse or neglect occurred and whether prior incidents of child abuse or child neglect have been indicated against the individual;
  - D) whether the abuse or neglect involved single or multiple child victims;
  - E) the relationship of the incident of child abuse or neglect to the individual's current or conditional job responsibilities within the child care facility;
  - F) whether the individual has been convicted of a criminal offense which might have bearing on the individual's ability to function in a child care facility as licensee or employee;
  - G) evidence of rehabilitation such as employment, education, participation in therapy since the indicated incident of abuse or neglect; and
  - H) character references.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- 2) When the abuse or neglect includes allegations identified in subsection (a) of this Section, the Department presumes the individual is not suitable to be licensed to operate a child care facility or to reside in a family home in which such a facility operates or for a position which allows access to children. If the licensing entity (for license applicants and current license holders) or the employer (for current and conditional employees) believes the individual is suitable for licensure, residence in a household in which a child care facility operates, a contract or agreement with the Department which allows access to children, or employment which allows access to children, the licensing entity or the employer may request a review and waiver of the presumption of unsuitability. Such requests shall be in writing and postmarked within 30 days after receipt of information from the Department about the individual's history as a perpetrator of child abuse or neglect.
  
- 3) The Director of the Department or the Director's designee shall review any materials submitted on the individual's behalf and may waive the presumption that the individual is unsuitable for licensure or employment which allows access to children or residence in a household in which a child care facility operates if, in the Director or designee's sole judgment, there is good cause for waiving the presumption of unsuitability. If the Director or designee waives the presumption that the individual is unsuitable, the hiring or licensing decision shall be made in accordance with the totality of the requirements of this Part and the applicable licensing standards.

**c) Notification of Hiring Decision**

A child care facility shall notify the Department in writing of its decision regarding the employment of a person who has been indicated as a perpetrator of child abuse/neglect. Such notice shall be postmarked within 30 days after receipt of the information from the Department about the individual's history as a perpetrator of child abuse or neglect. If the facility chooses to retain the employee, it must notify the Department of this decision and specify in the notice the operating hours of the facility, the duties of the employee, and the hours the employee will be working. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services.

(Source: Amended at 28 Ill. Reg. 13432, effective September 30, 2004)

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.60      Criminal Convictions and Pending Criminal Charges**

**a)      Convictions Which Serve as Bar to Licensure/Employment that Allows Access to Children**

Persons who have been convicted of certain serious crimes, identified in Appendix A of this Part, shall not receive a license to operate a child care facility or, if such a person has been licensed to operate a child care facility, the licensing entity shall revoke or refuse to renew such license upon learning that the licensee has been convicted of committing or attempting to commit any of the offenses identified below. In addition, no person who has been convicted of committing or attempting to commit any of the offenses listed below shall either be employed in a licensed child care facility in a position that allows access to children or reside in a family home in which a child care facility operates. This includes persons who have been:

- 1)      declared a sexually dangerous person under the Sexually Dangerous Persons Act [725 ILCS 205] or identified as a sex offender in the Illinois Sex Offender Registry operated by the Illinois State Police; or
- 2)      convicted of committing or attempting to commit any of the offenses specified in Appendix A of this Part that are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code (See Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2]);or
- 3)      convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relationship to any of the criminal offenses specified in Appendix A of this Part.

**b)      Special Provisions for Foster Family Homes**

In addition to the provisions set forth in subsection (a), no applicant may be licensed by the Department to operate a foster family home, and no person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2], and Section 5(v-1) of The Children and Family Services Act [20 ILCS 505/5(v-1)], or who is included in the Illinois Sex Offender Registry (unless the offender is a ward of the State of Illinois placed in the foster home by the Department or its contractual agent).

**c)      Special Provisions for Service Providers**

As a condition of a contract or agreement, or as otherwise required under 89 Ill. Adm. Code 357, Purchase of Service, the Department shall require a person who provides services that allow unsupervised access to children to authorize a background check under this Part.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**d) Assessment of Criminal Convictions**

Except as specified in subsections (a) and (b) of this Section, an individual convicted of a crime will not automatically be prohibited from licensure, renewal of a license, or employment in a child care facility, from residing in a family home in which a child care facility operates, or from obtaining a contract with the Department to provide services which allow access to children as part of their duties. Instead, the following shall be considered:

- 1) the nature of the crime for which the individual was convicted;
- 2) the circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;
- 3) the period of time that has elapsed since the crime was committed;
- 4) the number of crimes for which the individual was convicted;
- 5) evidence of rehabilitation such as successful participation in therapy since conviction;
- 6) commutation of the sentence by the Governor or granting of a pardon;
- 7) overturn of the conviction upon appeal;
- 8) character references;
- 9) the relationship of the crime to the capacity to care for children or to have access to children cared for in a child care facility;
- 10) Whether the employee/foster parent disclosed whether he or she had a criminal background and the circumstances of the conviction; and
- 11) The development of a supervisory or monitoring plan that the Department has approved.

**e) Assessment of Pending Criminal Charges**

When an employer is informed that an employee has a pending charge for a crime listed as a barred offense in subsection (a), the employer shall develop a protective plan addressing unsupervised access to children until the charge has been resolved. An individual against whom criminal charges are pending shall not be automatically prohibited from licensure, renewal of a license, or employment in a child care facility, residing in a family home in which a child care facility operates, or obtaining a contract with the Department to provide services which allow access to children (as

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

limited by 89 Ill. Adm. Code 357, Purchase of Service) because of the pending criminal charges. In those instances, the following shall be considered:

- 1) the seriousness and nature of the charges which are pending including a determination of whether the charges are among those listed in Appendix A of this Part that serve as a bar to licensure or employment in a position that allows access to children;
- 2) the circumstances surrounding the incident that led to the criminal charge;
- 3) the relationship of the charges to the ability to care for children or to have access to children and confidential information in a child care facility;
- 4) whether the individual has ever been convicted of or charged with crimes of a similar nature; and
- 5) character references and other information submitted by or on behalf of the appellant or any other person, especially about the suitability of the individual to care for children.

**f) Notification of Hiring Decision**

Child care facilities shall notify the Department in writing of their decision regarding the employment of a person with a criminal history. Such notice shall be postmarked within 30 days after receipt of the information from the Department about the individual's criminal history. If the facility chooses to retain the employee, it must notify the Department of this decision and specify in the notice the operating hours of the facility, the duties of the employee, and the hours the employee will be working. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services.

(Source: Amended at 33 Ill. Reg. 4117, effective February 27, 2009)

**Section 385.70 Disposition of Background Checks**

**a) Notice of Findings**

When the subject of the background check is the director, administrator or other chief executive officer of the facility, the Department shall notify in writing the presiding officer of the governing body of the results of the check, and the presiding officer shall take those actions required by this Part. In the case of a group home or a child care facility which operates in a family home, the Department shall notify in writing the supervising agency for the facility of the results of the check.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**b) Child Care Facility Decision Regarding Employment**

It shall be the responsibility of the governing body or operator of the facility to determine whether to hire or continue the employment of a conditional employee or to reassign the individual in question to a position which does not allow access to children, to provide the individual an opportunity for a review in accordance with the facility's personnel policies, and to notify the Department in writing of its employment decision within 30 days after receipt of the information from the Department. The decision of the employer is final, subject to review under the personnel policies of its governing body. Such hiring decisions may not be appealed to the Department of Children and Family Services.

**c) Request for Subsequent Background Check**

The employer of a person who has been relieved of child-related duties pursuant to this Part may request another background check if the circumstances leading to the relieving of child care duties have changed. A change of circumstances may include, but is not limited to:

- 1) pending criminal charges have been dismissed, resulted in an acquittal or conviction for a lesser charge;
- 2) a conviction is reversed on appeal;
- 3) the indicated finding of abuse or neglect is expunged, amended to another allegation, or amended to “unfounded”;
- 4) a pending child protection investigation of abuse or neglect is “unfounded”;  
or
- 5) the records of the circuit court, local or State Police, if relied upon to reach the decision, have been amended.

**d) Delinquent Child Support**

If the license applicant(s) has been denied a license or the Department has refused to renew a license because he or she is more than 30 days delinquent in child support, the applicant may reapply if he or she submits proof that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D support cases) or the court of jurisdiction (all other child support cases).

(Source: Amended at 21 Ill. Reg. 4444, effective April 1, 1997)

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.80 Appeal of Decision to Deny License or Permit Based on Background Check Information**

**a) What May Be Appealed Under This Part**

A license applicant may appeal:

- 1) the denial of an initial license based upon a background check conducted in accordance with this Part; or
- 2) the denial of a permit based upon a background check conducted in accordance with this Part.

**b) What May Not Be Appealed Under This Part**

The Chief Administrative Law Judge will decide whether an issue is appropriate for a fair hearing pursuant to subsection (a). Issues inappropriate for a fair hearing under this Part include, but are not limited to:

- 1) a decision based upon a background check conducted pursuant to this Part that revealed that the license applicant has a criminal conviction that bars licensure of, employment or residence in a licensed child care facility pursuant to Section 4(a) and (b) of the Child Care Act of 1969 [225 ILCS 10/4(a) and (b)], unless the licensing applicant can establish that an exception, as provided in Section 4(b)(2) of the Act, may exist (see Appendix A); or
- 2) a decision based upon a background check conducted pursuant to this Part that revealed that the license applicant has a criminal conviction that bars licensure of or residence in a foster family home pursuant to Section 4(c) of the Child Care Act of 1969 [225 ILCS 10/4(c)], unless the licensing applicant can establish that an exception, as provided in Section 4(d) of the Child Care Act of 1969 [225 ILCS 10/4(d)], may exist.

**c) Appeal Request**

An individual requesting an opportunity for an appeal pursuant to subsection (a) shall submit such request, in writing, to the:

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

All such requests must be postmarked within ten days after the date of written notice of the denial of an application for license or permit.



**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**d) Review of File**

- 1) After the Administrative Hearings Unit has received the individual's request for an appeal, the Administrator of the Administrative Hearings Unit shall notify the Department that the individual has appealed and the Department shall send to the Administrator a copy of the notice of denial of the application for a license or permit. The notice of denial shall be prima facie evidence that the Department had a basis for refusing to issue the license or permit.
- 2) The Administrator shall ask both the Department and the individual to submit any documents, records, statements, or other materials pertinent to the Department's denial of the application for licensure to create an appeal file. The Administrator shall further advise the Department and the individual of the intent to examine the appeal file, including all materials submitted for the appeal file, to determine whether a genuine issue of material fact exists. Within ten business days after the date of the Administrator's request for materials, both the Department representative and the individual shall submit to the Administrative Hearings Unit any and all documents, records, statements, materials, or evidence to establish that the Department's decision to deny the license because of the background check was either correct or incorrect.
- 3) At least ten business days after the Administrator's request for materials, the Administrator shall examine the entire appeal file, including all materials submitted by both parties, and shall determine if a genuine issue of material fact exists.
- 4) If the Administrator determines that no genuine issue of material fact exists, the Administrator shall dismiss the appeal. The letter dismissing the appeal shall be the final administrative decision of the Department.

**e) The Appeal Process**

The individual shall be notified, in writing, of the date, time and location of the appeal hearing. The individual may be represented by counsel of his or her choice, and may present evidence and/or witnesses on his or her own behalf. The individual shall be required to produce evidence that he or she is not the individual identified in the background report, the background check report is inaccurate or, if the issue is delinquency in the payment of child support, that the child support has been paid in full or that a payment schedule has been arranged with the Department of Public Aid (Title IV-D cases) or a court of jurisdiction (all other child support cases). Evidence to be considered shall be limited to:

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- 1) When the appeal involves an indicated CANTS/SACWIS report, written statements 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
- 2) When the appeal involves a criminal history record, evidence shall be limited to 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 was never convicted of the crimes as alleged in the criminal history record, or 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; or
- 3) When the appeal involves delinquent child support, written statements from the Department of Public Aid or the clerk of the court, as applicable, that child support has been paid in full or a payment schedule arranged or that the payment record was incorrect.

**f) Final Administrative Decision**

The administrative law judge conducting the appeal must conclude that, when all the evidence presented pursuant to this Part and the applicable licensing standards are considered, there is clear and convincing evidence that the individual is not the person named in the indicated report/criminal history record or that the individual is suitable for service which allows access to children. If the appeal is addressing the issue of delinquent child support, the individual must submit proof that the record was in error or that he or she has paid the delinquency or made arrangements for payment of delinquent child support. A decision of the Department licensing authority is a final administrative decision, subject to review by a court of competent jurisdiction.

**g) Record of Appeal**

A written record shall be made of any reviews conducted pursuant to this Section, and such record shall contain copies of all documents relied upon in making the determination of fitness or unfitness for licensure.

(Source: Amended at 28 Ill. Reg. 13432, effective September 30, 2004)

**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](mailto:cfpolicy@idcfs.state.il.us).

## **VII. FILING INSTRUCTIONS**

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

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**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.90      Records to be Maintained by the Child Care Facility**

- a) The governing body or operator of a child care facility shall maintain a copy of the authorization for background checks required by Sections 385.50 and 385.60 as part of the personnel records of the facility for a period of five years from the date of termination of the employment of the employee.
  
- b) The background check record of any conclusions or recommendations resulting from the review of the findings of that check by the governing body or operator of the child care facility shall be maintained for five years after termination of the employment in a separate, confidential file apart from other personnel records. Access to such records shall be permitted to the following:
  - 1) the subject of an individual record;
  - 2) the governing body or operator of the child care facility;
  - 3) Department licensing representatives;
  - 4) Department staff authorized, in writing, by the Director to conduct background checks pursuant to this Part;
  - 5) persons who are authorized, in writing, by the governing body or operator of the child care facility and whose duties are related to the background checks or its findings;
  - 6) Department representatives who have the Director of the Department's written authorization which specifies the statutory authority or administrative rule(s) under which the access is granted; and
  - 7) such other persons who are lawfully entitled to the information (e.g. persons with a valid subpoena, law enforcement personnel, or the attorney of the individual in question).

(Source: Amended at 21 Ill. Reg. 4444, effective April 1, 1997)

**Section 385.100   Confidentiality of Background Check Information**

*Any employee of the Department of Children and Family Services, the Illinois State Police, or a child care facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions or child abuse or neglect information of a child care facility applicant, or child care facility employee, shall be guilty of a Class A misdemeanor unless release of such information is authorized by Sections 4.1 and 4.3 of the Child Care Act of 1969 [225 ILCS 10/4.1 and 4.3].*

(Source: Added at 21 Ill. Reg. 4444, effective April 1, 1997)

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.110 Severability of This Part**

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Renumbered from Section 385.70 at 21 Ill. Reg. 4444, effective April 1, 1997)

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives**

- a) Criminal Convictions Preventing Licensure, Employment, or Residence in a Family Home in Which a Child Care Facility Operates

If any person subject to background checks has been included in the Illinois Sex Offender Registry or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 2012 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to: receiving a license or permit to operate as a child care facility and renewal of an existing license to operate a child care facility; residing in a family home in which a child care facility operates; obtaining employment or continuing in employment in a licensed child care facility which allows access to children as part of the duties; and obtaining a contract or agreement providing services on behalf of the Department that allows unsupervised access to children.

In addition to the list of crimes in this Appendix A, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the offenses listed in 89 Ill. Adm. Code 402.Appendix A (Criminal Convictions Which Prevent Licensure), which is a more inclusive list of crimes.

The offenses that serve as a bar to licensure, residence in a family home in which a child care facility operates, employment that allows access to children in any child care facility subject to licensing, or providing services that allow unsupervised access to children include:

**OFFENSES DIRECTED AGAINST THE PERSON**

**HOMICIDE**

- *Murder*
- *Solicitation of murder*
- *Solicitation of murder for hire*
- *Intentional homicide of an unborn child*
- *Voluntary manslaughter of an unborn child*
- *Involuntary manslaughter*
- *Reckless homicide*
- *Concealment of a homicidal death*

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- *Involuntary manslaughter of an unborn child*
- *Reckless homicide of an unborn child*
- *Drug induced homicide [225 ILCS 10/4.2(b)]*

**KIDNAPPING AND RELATED OFFENSES**

- *Kidnapping*
- *Aggravated kidnapping*
- *Aggravated unlawful restraint*
- *Forcible detention*
- *Child abduction*
- *Aiding and abetting child abduction*
- *Harboring a runaway [225 ILCS 10/4.2(b)]*

**SEX OFFENSES UNDER ARTICLE 11 OF THE CRIMINAL CODE OF 1961, EXCEPT OFFENSES DESCRIBED IN SECTIONS 11-7, 11-8, 11-12, 11-13, 11-35, 11-40 AND 11-45**

- *Indecent solicitation of a child*
- *Indecent solicitation of an adult*
- *Public indecency*
- *Sexual exploitation of a child*
- *Custodial sexual misconduct*
- *Presence within school zone by child sex offenders*
- *Approaching, contacting, residing, or communicating with a child within a public park zone by child sex offenders*
- *Sexual relations within families*
- *Prostitution*
- *Soliciting for a prostitute*
- *Soliciting for a juvenile prostitute*
- *Solicitation of a sexual act*
- *Pandering*
- *Keeping a place of prostitution*
- *Keeping a place of juvenile prostitution*
- *Patronizing a prostitute*
- *Patronizing a minor engaged in prostitution*
- *Pimping*
- *Juvenile pimping*
- *Exploitation of a child*
- *Obscenity*
- *Child pornography*
- *Harmful material*
- *Tie-in sales of obscene publications to distributors*
- *Posting of identifying information on a pornographic internet site [720 ILCS 5/Art. 11]*

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**BODILY HARM**

- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of a child*
- *Tampering with food, drugs, or cosmetics*
- *Hate crime*
- *Stalking*
- *Aggravated stalking*
- *Threatening public officials*
- *Home invasion*
- *Vehicular invasion*
- *Drug induced infliction of great bodily harm*
- *Criminal sexual assault*
- *Aggravated criminal sexual assault*
- *Predatory criminal sexual assault of a child*
- *Criminal sexual abuse*
- *Aggravated sexual abuse*
- *Criminal transmission of HIV*
- *Criminal abuse or neglect of an elderly or disabled person*
- *Child abandonment*
- *Endangering the life or health of a child*
- *Ritual mutilation*
- *Ritualized abuse of a child*
- *Any violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646] [225 ILCS 10/4.2(b)]*

*Final approval for licensure shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault or homicide, but not including other felony convictions for physical assault or battery, or if there is a felony conviction for physical assault, battery or a drug-related offense committed within the past 5 years. [20 ILCS 505/5(v-1) and (v-2)]*

**Waiver of Convictions for Placement with Relatives**

Criminal convictions that were waived by the Director for the initial placement in accordance with provisions in Section 7(b) of the Children and Family Services Act [20 ILCS 505/7(b)] and 89 Ill. Adm. Code 301.Appendix A(b) and (c) are deemed waived for a final placement decision. If additional criminal convictions appear as a result of the fingerprint results, a new waiver request shall be submitted to the Director or designee.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- b) Additional Convictions that Bar Licensure of or Employment in a Child Care Facility *In addition to the requirements of subsection (a), no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar to and bear a substantial relationship to any of the following offenses:*

*OFFENSES DIRECTED AGAINST THE PERSON*

*BODILY HARM*

- *Felony aggravated assault*
- *Vehicular endangerment*
- *Felony domestic battery*
- *Aggravated battery*
- *Heinous battery*
- *Aggravated battery with a firearm*
- *Aggravated battery of an unborn child*
- *Aggravated battery of a senior citizen*
- *Intimidation*
- *Compelling organization membership of persons*
- *Abuse and gross neglect of a long term care facility resident*
- *Felony violation of an order of protection*

*OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY*

- *Felony unlawful use of weapons*
- *Aggravated discharge of a firearm*
- *Reckless discharge of a firearm*
- *Unlawful use of metal piercing bullets*
- *Unlawful sale or delivery of firearms on the premises of any school*
- *Disarming a police officer*
- *Obstructing justice*
- *Concealing or aiding a fugitive*
- *Armed violence*
- *Felony contributing to the criminal delinquency of a juvenile*

*DRUG OFFENSES*

- *Possession of more than 30 grams of cannabis*
- *Manufacture of more than 10 grams of cannabis*
- *Cannabis trafficking*

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- *Delivery of cannabis on school grounds*
- *Unauthorized production of more than 5 cannabis sativa plants*
- *Calculated criminal cannabis conspiracy*
- *Unauthorized manufacture or delivery of controlled substances*
- *Controlled substance trafficking*
- *Manufacture, distribution or advertisement of look-alike substances*
- *Calculated criminal drug conspiracy*
- *Street gang criminal drug conspiracy*
- *Permitting unlawful use of a building*
- *Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property*
- *Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances*
- *Delivery of controlled substances*
- *Sale or delivery of drug paraphernalia*
- *Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection*
- *Felony possession of a controlled substance [225 ILCS 10/4.2(b-1)]*

c) In addition to any other provision of this Section, for applicants with access to confidential financial information or who submit documentation to support billing, no applicant whose initial application was considered after July 31, 2012 may receive a license from the Department or a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following felony offenses:

- 1) *financial institution fraud under Section 17-10.6 of the Criminal Code of 2012;*
- 2) *identity theft under Section 16-30 of the Criminal Code of 2012;*
- 3) *financial exploitation of an elderly person or a person with a disability under Section 17-56 of the Criminal Code of 2012;*
- 4) *computer tampering under Section 17-51 of the Criminal Code of 2012;*
- 5) *aggravated computer tampering under Section 17-52 of the Criminal Code of 2012;*
- 6) *computer fraud under Section 17-50 of the Criminal Code of 2012;*
- 7) *deceptive practices under Section 17-1 of the Criminal Code of 2012;*
- 8) *forgery under Section 17-3 of the Criminal Code of 2012;*
- 9) *State benefits fraud under Section 17-6 of the Criminal Code of 2012;*
- 10) *mail fraud and wire fraud under Section 17-24 of the Criminal Code of 2012;*
- 11) *theft under Section 16-1(1.1) through (11) of the Criminal Code of 2012. [225 ILCS 10.4.2(b-1.5)]*

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

- d) Exception Applicable to Child Care Facilities Other than Foster Family Homes  
Notwithstanding subsection (a), *the Department may issue a new child care facility license or may renew the existing child care facility license of an applicant, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b), or the Department may approve the employment of a person by a child care facility who was convicted of an offense described in subsection (b), provided that all of the following requirements are met:*
- 1) *The relevant criminal offense or offenses occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant or prospective employee has passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*
  - 2) *The Department must conduct a background check and assess all convictions and recommendations of the child care facility in accordance with Section 385.60(d), (e) and (f) and determine if a waiver is applicable in accordance with subsection (d)(1);*
  - 3) *The applicant meets all other requirements and qualifications to obtain a license to operate the pertinent type of child care facility. [225 ILCS 10/4.2(b-2)]*

(Source: Amended at 37 Ill. Reg. 12827, effective July 30, 2013)



**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

**Section 385.APPENDIX B Matrix of Persons Subject to Background Checks Under Part 385**

Type of Individual	Criminal Check	Illinois Sex Offender Registry	Child Abuse/ Neglect Check	Child Support	Explanation
Operator	Yes	Yes	Yes	Yes	Criminal check via fingerprints. Delinquent child support check applies only to for-profit entities.
Employee •Age 17 and over •Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17 and over, the criminal check is done via fingerprints.
Others in Family Home •Age 17 and over •Ages 13 through 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17 and over, the criminal check is done via fingerprints.
Individual Used to Replace or Supplement Staff •Age 17 and over •Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17 and over, the criminal check is done via fingerprints.
Service provider for the Department who has access to children •Age 17 and over •Under age 18	Yes No	Yes Yes	Yes Yes	No No	For persons age 17 and over, the criminal check is done via fingerprints.

**BACKGROUND CHECKS**  
**April 10, 2015 – P.T. 2015.06**

Type of Individual	Criminal Check	Child Sex Offender Registry	Child Abuse/Neglect Check	Child Support	Explanation
Work Study Student	No	Yes	Yes	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required, also.
Contractual Staff Hired by the Child Care Facility	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Volunteers	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.
Parents	No	No	No	No	If counted in the staff-child ratio or left alone with children outside the visual or auditory supervision of facility staff, the individual is replacing or supplementing staff and a criminal background check is required.

(Source: Amended at 33 Ill. Reg. 4117, effective February 27, 2009)

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**POLICY GUIDE 2018.11**

**Replaces PG 2016.11  
RULE 385 BACKGROUND CHECKS**

**DATE:** July 20, 2018  
**TO:** DCFS and Private Agency Licensing Staff  
**FROM:** Beverly J. Walker, Acting Director  
**EFFECTIVE:** Immediately

**I. PURPOSE**

This Policy Guide applies only to employee, conditional employee, volunteers or non-licensed service provider fingerprint searches.

The purpose of this Policy Guide is to inform Department and Purchase of Services licensing staff, as well as holders of a child care facility license, that all employees for a licensed child care facility, including child welfare agencies, shall be fingerprinted, per the Illinois Child Care Act and Children & Family Services Act. An employee or applicant for employment shall be defined for the purpose of this policy guide as one of the following: Employee, Conditional Employee, Volunteer or Non-licensed service provider.

This Policy Guide is effective immediately.

**II. PRIMARY USERS**

The primary users of this Policy Guide are Department Licensing Staff, POS Licensing staff and license holders.

**III. BACKGROUND AND SUMMARY**

The Child Care Act and the Children and Family Services Act, without exception, require a fingerprint background search of the FBI Database to be completed for all employees of a licensed child care facility, including child welfare agencies. These statutes have authority over Rule 385.30 c) 4) that states persons who have not lived out-of-state over the past 3 years do not need a fingerprint background search of the National Crime Information Database. The following information does not change any requirements or procedures in place regarding the identification of criminal background history through a check conducted by the Illinois State Police.



#### **IV. INSTRUCTIONS**

When a fingerprint search results in the identification of a criminal bar to employment in a licensed childcare facility, the private agency and/or license holder shall receive notice of the bar to employment for that individual; no other information related to the fingerprint search shall be disclosed to the employer by the Department. The notice shall include a waiver form for the employer to complete should there be pursuance of a waiver to employment for the employee. The employer has the option to pursue a waiver, or not.

The employee or applicant for employment shall receive a notice from the Department when the individual has a criminal bar to employment in a childcare facility. The notice sent to the employee or applicant shall provide information related to how they can receive a copy of their fingerprint search record. The notice to the employee or applicant shall include the type of bar and where to go to resolve any mistakes they believe have occurred within their record. In addition, the notice shall include language that the applicant or employee may approach their employer or prospective employer and share the information in an effort to secure a waiver recommendation from said employer. The employer shall have the option to meet, or not to meet with the employee or potential employee to pursue a bar that can be waived. If the employer pursues a waiver so the individual can be employed, they would need to meet with the individual and complete the questions received as part of the initial notice to the employer. No other changes in the licensing background checks requirements or processes shall occur.

#### **V. 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 DCFS.Policy. Non Outlook users may e-mail questions to DCFS.Policy@illinois.gov.

#### **VI. FILING INSTRUCTIONS**

Remove and replace Policy Guide 2016.11 with this Policy Guide immediately after **Part 385, Background Checks**

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

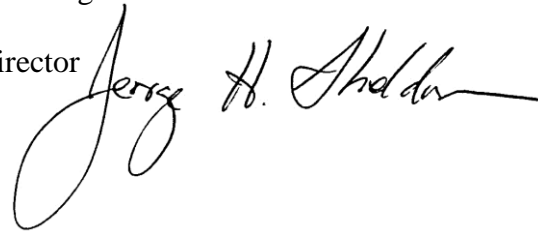
**POLICY GUIDE 2015.06**

**REQUESTS FOR WAIVERS OF PRESUMPTION OF UNSUITABILITY**

**DATE:** March 19, 2015

**TO:** DCFS and Private Agency Licensing Staff

**FROM:** George H. Sheldon, Acting Director



**EFFECTIVE:** Immediately

**I. PURPOSE**

The purpose of this Policy Guide is to inform Department and Purchase of Services (POS) licensing staff of a new requirement to review and assess child protection reports before requesting a waiver of presumption of unsuitability, which is consistent with a recent recommendation of the Office of Inspector General.

**II. PRIMARY USERS**

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

**III. BACKGROUND**

As explained in Rule 385, subsection 385.50(b), when an individual has been the indicated perpetrator of certain types and/or number of abuse or neglect allegations listed in subsection 385.50(a), the Department presumes the individual is not suitable to operate a licensed child care facility, reside in a licensed foster family home, or hold a position in a licensed facility that allows access to children. If the licensing entity believes the individual is suitable, despite the indicated abuse or neglect allegation, they may request a review and waiver of the presumption of unsuitability.

In a recent report, the Department's Office of Inspector General advised that before recommending a waiver of the presumption of unsuitability, staff should review and assess relevant child protection reports.

This Policy Guide summarizes the Department's guidelines for implementing this new standard.



#### **IV. SUMMARY**

Before licensing staff may request a waiver of presumption of unsuitability, the person for whom a waiver is being requested must sign a consent to allow licensing staff to review and assess all child protection reports in which they were identified as an indicated perpetrator. Licensing staff shall conduct a thorough review of all child protection reports in which the individual was identified as an indicated perpetrator. After this review, the licensing worker, in consultation with his/her supervisor, shall make a determination whether to request a waiver regarding unsuitability.

The Department will propose amendments to Rule 385 to comport with this Policy Guide. Licensing staff shall immediately implement the new standards.

#### **V. 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](mailto:cfpolicy@idcfs.state.il.us).

#### **VI. FILING INSTRUCTIONS**

File this Policy Guide immediately following Rules 385, Background Checks.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**POLICY GUIDE 2018.01 – Corrected**

**OUT-OF-STATE FINGERPRINTS FOR ADOPTION AND  
SUBSIDIZED GUARDIANSHIP CASES**

**DATE:** December 13, 2018  
**TO:** DCFS and Private Agency Permanency and Licensing Staff  
**FROM:** Beverly J. Walker, Acting Director  
**EFFECTIVE:** Immediately

**I. PURPOSE**

The purpose of this Policy Guide is to update procedures to secure required Illinois State Police (ISP) fingerprint clearances for foster families pursuing adoption or subsidized guardianship of a foster child who is under the legal auspices of the Department, but whose current residence is outside the State of Illinois. These updates reflect a form number change and the correct address for Accurate Biometrics. These procedures only apply to adoption and subsidized guardianship cases that are to be finalized in Illinois. This Policy Guide 2018.01 – Corrected replaces Policy Guide 2018.01 issued January 10, 2018.

**II. PRIMARY USERS**

The primary users of this policy guide are Department and Private Child Welfare Agency staff with responsibilities for children with a permanency goal of adoption or subsidized guardianship.

**III. BACKGROUND**

The Illinois Adoption Act requires that an investigation occur before an adoption, i.e., *“The investigation required under this Section (of the Adoption Act) shall include a fingerprint based criminal background check with a review of fingerprints by the Illinois State Police and Federal Bureau of Investigation.”* As a result, the Department is issuing procedures in order to increase efficacy for the purpose of securing permanency for youth through adoption and subsidized guardianship, while meeting the requirements of statute.



#### IV. SUMMARY OF PROCEDURES

Foster parents who reside out of state and are pursuing adoption or subsidized guardianship in Illinois, and any household member who is 18 or over, shall be fingerprinted, with fingerprints being completed and processed as follows:

##### PROCEDURAL STEPS

- a) The child welfare agency that is assigned responsibility for facilitating the child's adoption or subsidized guardianship shall secure and complete Section 1 of the most recently revised version of the **CFS 718-A, Authorization for Background Check for Unlicensed Home of Relative**
- b) The child welfare agency shall subsequently send a **CFS 718-A** for each household member who is 18 years or older
- c) Each and every household member of the foster home who is age 18 years or older shall complete Sections 2 & 3 of the **CFS 718-A**, including signature and date.
- d) Each adult household member shall take the **CFS 718-A** to their local law enforcement agency or vendor.
- e) The local law enforcement agency shall fingerprint each adult household member using the standard FBI fingerprint card, form number **FD-258**. When the local law enforcement agency does not have the **FD-258**, the form can be printed from the Accurate Biometrics website at:  
  
[accuratebiometrics.com/fingerprinting\\_Ink\\_and\\_Roll.html](http://accuratebiometrics.com/fingerprinting_Ink_and_Roll.html)
- f) Any fee for fingerprints required by out-of-state law enforcement agencies shall be the responsibility of the foster parents pursuing adoption or subsidized guardianship.
- g) The completed **CFS 718-A** and **FD-258** for each adult household member shall be submitted by the foster family to the Child Welfare Agency responsible for securing the child's permanency.
- h) The Child Welfare Agency shall ensure that the **CFS 718-A** has correctly been completed by each adult household member (sections 2 & 3) and that the **FD-258** is attached.
- i) The child welfare agency shall be responsible to subsequently complete section 4 of the **CFS 718-A**. The child welfare agency shall keep the original **CFS 718-A** for the child's case file and send a copy of the **CFS 718-A** and the original **FD-258** with a cover sheet that is clearly marked "Adoption Only and for ISP Only," to the following address:

**Accurate Biometrics, 500 Park Boulevard, Suite 1260, Itasca, IL 60143**



- j) The responsible child welfare agency shall have a LEADS certified adoption worker concurrently electronically scan and send the **CFS 718-A** to Central Office of Licensing, with the provider's name and ID# written in the subject line, at the following D-Net Outlook mailbox that is in the Outlook Directory, i.e. **DCFS OSURE**
- k) Accurate Biometrics shall process the fingerprints using the AWA purpose code, with the results being made accessible to the Central Office of Licensing Unit.
- l) Central Office of Licensing shall complete the ISP portion of Section 5 of the **CFS 718-A** and send the fingerprint results to the responsible child welfare agency.

## V. **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@illinois.gov](mailto:cfpolicy@illinois.gov).

## VI. **FILING INSTRUCTIONS**

Please remove Policy Guide 2018.01 that was issued on January 10, 2018 from behind **Rules 385, Background Checks**, and replace with this corrected policy guide.

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**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

Distribution: X and Z

**POLICY GUIDE 2011.03**

**BACKGROUND CHECK PROCEDURES FOR UNLICENSED CONTRACT**

**DATE:** April 28, 2011

**TO:** Rules and Procedures Bookholders

**FROM:** Erwin McEwen, Director



**EFFECTIVE:** Immediately

**I. PURPOSE**

The purpose of this Policy Guide is to inform Department staff, contract liaisons and DCFS background unit staff of the changes in processing background checks for employment of un-licensed contract providers.

**II. PRIMARY USERS**

The primary users of this policy guide are Department staff, contract liaisons and DCFS background check unit staff.

**III. BACKGROUND INFORMATION**

Background checks for persons employed with Non-Licensed Contract Providers who contract with the Department were done by the Office of Employment Services (OES). Effective April 1, 2011, the process will be done by the Division of Licensing, Background Check Unit, Chicago Office and the process is as follows:

**a) Mandatory Criminal Background Check**

A mandatory background check, as described below, is required when a person is employed with a Non-Licensed Contractor that has a contract with the Department and the employee may have access to children.

The person with access to children who is employed by a Non-Licensed Contract provider shall submit a CFS 718-C, Authorization for Background Check, to the Department contract liaison.

The criminal background check includes a CANTS check, and a check of the ISP and FBI database. (See attached flow chart)



## **DCFS Fingerprint Search Database**

Prior to submitting an authorization for background checks the contract liaison shall perform a name search of the DCFS fingerprint search database of all persons needing a criminal background check to determine if a fingerprint record of the person has been done before. The results of the fingerprint search will determine whether the person needs to be printed or not.

The name search shall be done by following the instructions on the following DCFS web site: <https://fingerprintsearch.dcfis.illinois.gov/>

The contractor's provider number will be used on the CFS 718-C

### **A) Name Found** on DCFS web site database

If the name of the individual is found in the DCFS criminal history fingerprint check database as having been fingerprinted, that person does not have to be fingerprinted again unless otherwise directed by DCFS.

Finding the name of a person in this database does not imply that the person has clear the background check. The Department will request a criminal history update for that person.

The contract liaison shall print the "confirmation screen" from the DCFS database to confirm the individual's information is already on file. Place a copy in the contract file.

Forward the CFS 718-C with the confirmation screen to:

DCFS Background Check Unit  
1911-21 S Indiana 7<sup>th</sup> Floor  
Chicago, Illinois 60616

### **B) Name Not Found** on DCFS web site

If the name of the individual is not found in the DCFS criminal history fingerprint check database, staff shall complete Part 4 of the CFS 718-C. Staff shall print and attached the "confirmation screen" to the CFS 718-C and keep a copy for the file.

Staff shall direct the person to be fingerprinted to the fingerprint provider with the CFS 718-C and a copy of the confirmation screen to the fingerprinting agency/vendor

**b) Fingerprint Process:**

The fingerprint vendor shall

1. Verify the identity and signature of the provider or employee by comparing information on a valid government issued photo identification card with the information on the authorization for background check form;
2. Obtain fingerprints of the provider;
3. Send fingerprints to Illinois State Police; and the Federal Bureau of Investigation (FBI).
4. Forward the CFS 718-C to:

DCFS Background Check Unit  
1911-21 S. Indiana, 7<sup>th</sup> Floor  
Chicago, IL 60616

- c) The Department Background Check Unit shall check the Child Abuse and Neglect Tracking System (CANTS) and Sexual Offender Registry System (SORS) and notify the contract liaison of the findings.

**IV. ATTACHMENTS**

**Non-Licensed Contractors Background Check Procedure Flow Chart  
CFS 718-C, Authorization for Background Check for Non Licensed Contract Staff**

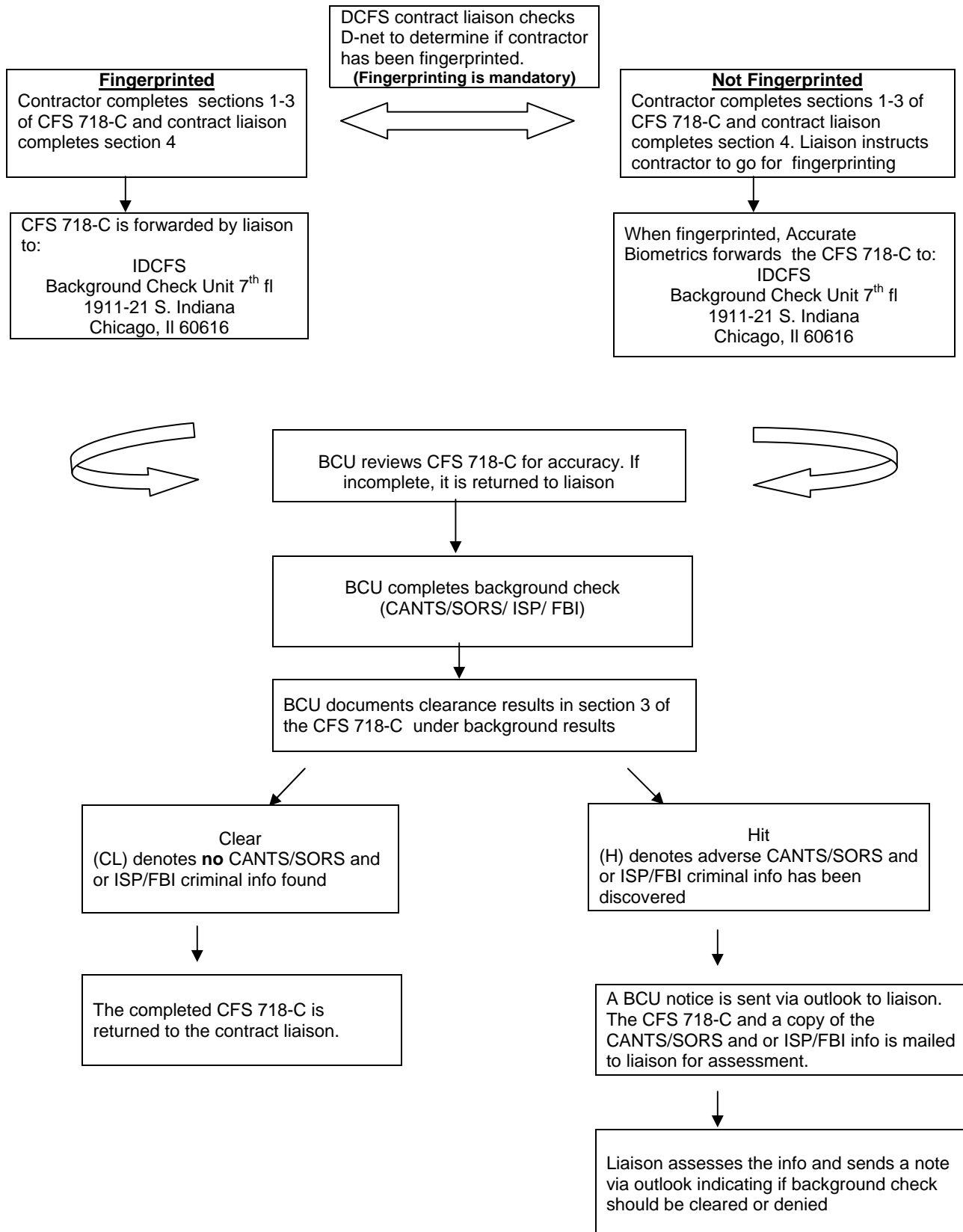
**V. QUESTIONS**

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](mailto:cfpolicy@idcfs.state.il.us) or contact Carolyn Bailey at (312) 328-2213

**VI. INSTRUCTIONS**

File this Policy Guide immediately following Rule 385.

# Non-Licensed Contractors Background Check Procedure Flow Chart



**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**


Distribution: X, Z and L

**POLICY GUIDE 2011.06**

**PRELIMINARY PROCESS PRIOR TO REQUESTING A BACKGROUND CHECK**

**DATE:** July 6, 2011

**TO:** Rules and Procedures Book Holders, DCFS and Purchase of Service Staff, Licensed Facilities, and other State Entities.

**FROM:** Erwin McEwen, Director 

**EFFECTIVE:** Immediately

**I. PURPOSE**

The purpose of this policy guide is to instruct the staff of the Department, Purchase of Service Agencies, and other Illinois State entities that use the Illinois Department of Children and Family Services' licensing background check system for the purpose of processing background checks (CA/N, ISP, SOR, and FBI).

The procedures outlined below require a check of the fingerprint web-based computer data tracking system **prior** to requesting a criminal history background check. This procedure will eliminate the duplication of fingerprint submissions and will minimize the costs of conducting Illinois State Police (ISP) and Federal Bureau of Investigation (FBI) fingerprint-based inquiries.

**II. PRIMARY USERS**

The primary users of this policy guide are Department, Purchase of Service, and staff from other Illinois State agencies/entities requesting a background check from the Department.

**III. POLICY**

a) **Applicability**

Effective immediately a name search of the DCFS fingerprint database is **required** prior to requesting a criminal history background check on persons who are subject to background check listed in **Section 385.20**.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;



- any person who is used to replace or supplement staff;
- any person who has access to children, as defined in **Section 385.20**; and
- any person who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code **357, Purchase of Service**.

A child care facility which operates in a family home, the license applicants and all members of the household age 13 years of age and older are subject to background checks even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

b) **Procedure for Conducting a Name Search in the Fingerprint Database**

Prior to sending an individual for a criminal background check via fingerprints the requesting person shall check the web based DCFS Fingerprint Search data system at <https://fingerprintsearch.dcf.illinois.gov/> to determine if DCFS has a fingerprint record of that person. The website will not disclose the results of the fingerprint search, if any, but will list persons by name who have been fingerprinted by DCFS in the past. The requesting person/worker shall:

- 1) obtain the appropriate completed, dated, and signed **CFS 718** Authorization for Background Check form from the individual for whom a background check is required (See Section VI of this Policy Guide);
- 2) complete all fields in the section titled “To Be Completed By Employer”;
- 3) access the DCFS Fingerprint Search System at <https://fingerprintsearch.dcf.illinois.gov/>; and
- 4) positively identify the person to be fingerprinted using a photo ID (e.g. government issued ID, driver license, passport); enter the following information in the mandatory data entry requirement fields : Provider ID, First Name, Last Name, Birth Date, and the last four (4) digits of the individual’s social security number and click search.

The Fingerprint Search system will conduct a search of the DCFS fingerprint database and display one of the following messages (in red, on the left side of the screen):

- Fingerprint Exist. Print the form in the Pop Up Window or
- Fingerprint is not on file. Print form in the Pop Up Window

The requesting person shall click the “print” icon (on the pop up window) and the system will generate the *Fingerprint Search Results* document.



Depending on the fingerprint search results the requesting person will follow the appropriate processes below to complete the Background Check Process which are:

5) **Fingerprints on File**

The requesting person/worker shall:

- A) make a copy of the appropriate **CFS 718** and the *Fingerprint Search Results* document for the file; and
- B) staple the *Fingerprint Search Results* to the **CFS 718** and submit both documents directly to the appropriate Background Check Unit (BCU) for processing

See table in Section VI of this Policy Guide for instructions on where to send the respective **CFS 718**.

6) **Fingerprints NOT On File**

The requesting person/worker shall:

- A) make a copy of the appropriate **CFS 718** and *Fingerprint Search Results* document as a file copy;
- B) staple the *Fingerprint Search Results* document to the **CFS 718**;
- C) contact Accurate Biometrics at (773) 685-5699 or at <http://www.accuratebiometrics.com/> and schedule the individual for fingerprinting; and
- D) give the appropriate **CFS 718** and the *Fingerprint Search* documents to the individual required to be fingerprinted. The individual must be present both the **CFS 718** and the *Fingerprint Search Results* to Accurate Biometrics in order to be fingerprinted.

c) **Fingerprint Update Costs**

There is no charge to update finger print searches for license renewal, persons subject to a background check applying to work in an licensed agency, adoption, subsidized guardianship, relative adoption, and unlicensed home of relative placement. The cost of updating fingerprints is addressed in **Rule 385, Background Checks**.

#### IV. FINGERPRINT REPRINT NOTICES

- a) The requesting person shall follow all instructions printed on the fingerprint reprint notice.
- b) The individual needing to be reprinted shall take the reprint notice to the fingerprint vendor to have new fingerprints taken.

#### V. NO INTERNET ACCESS

A requesting person who does not have access to the Internet to conduct the web based fingerprint search shall, contact the Background Check Unit responsible for processing the Authorization for Background Check form. Please call either BCU-Chicago at (312) 328-2465; (312) 328-2464 or BCU – Springfield at (217) 785-2688.

#### VI. INSTRUCTION TABLE FOR SENDING CFS 718, AUTHORIZATION FOR BACKGROUND CHECKS

Authorization Form #	Authorization for	Where to Send
CFS 718	Operator of Child Care Facility except Foster Care	BCU – Chicago 1911 S. Indiana – 7 <sup>th</sup> floor Chicago, IL. 60616
CFS 718	DCFS and POS Traditional Foster Care	BCU – Springfield 406 E. Monroe St. Station #60 Springfield, IL. 62701
CFS 718-C	Non-licensed Contract Staff	BCU – Chicago 1911 S. Indiana – 7 <sup>th</sup> floor Chicago, IL. 60616
CFS 718-E	Child Care Facility Employee or Volunteer	BCU – Chicago 1911 S. Indiana – 7 <sup>th</sup> floor Chicago, IL. 60616
CFS 718-L	Adoptive Home, Subsidized Guardianship, and Legal Screening Updates	BCU – Springfield 406 E. Monroe St. Station #60 Springfield, IL. 62701
CFS 718-LE	DHS – License Exempt Child Care Providers	BCU – Chicago 1911 S. Indiana – 7 <sup>th</sup> floor Chicago, IL. 60616
CFS 718-RL	Unlicensed Relatives applying for licensure	BCU – Springfield 406 E. Monroe St. Station #60 Springfield, IL. 62701

#### VII. 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 or [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

#### VIII. FILING INSTRUCTIONS

File this Policy Guide immediately following **Rule 385, Background Checks**.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**ACTION TRANSMITTAL 2017.01  
AUTHORIZATION FOR BACKGROUND CHECK FOR FOSTER CARE &  
ADOPTION**

**RELEASE DATE:** October 4, 2017  
**TO:** Child Protection Specialists and Supervisors  
**FROM:** Nora Harms-Pavelski, Deputy Director Child Protection  
**EFFECTIVE DATE:** Immediately

**I. PURPOSE**

The purpose of this Action Transmittal is to provide Child Protection staff with instruction regarding the form to use to obtain authorization for background checks of foster care providers seeking licensure.

**II. BACKGROUND**

On December 8, 2014, the **CFS 718-RL Authorization for Background Check for Relatives Applying for a Foster Home License** form was rendered obsolete when it and several other forms were incorporated into the **CFS 718-A Authorization for Background Check for Foster Care & Adoption** form. Some staff have continued to use old supplies of the CFS 718-RL.

**III INSTRUCTIONS**

Child Protection staff shall immediately cease using the **CFS 718-RL Authorization for Background Check for Relatives Applying for a Foster Home License** form and use only the **CFS 718-A Authorization for Background Check for Foster Care & Adoption** form to obtain authorization for a background check of a foster parent seeking licensure. Please remove and recycle any remaining supplies of the CFS 718-RL.

**IV UPDATED FORM/PACKETS**

The CFS 454-1, Relative Caregiver Information Checklist Licensure Forms and the Investigation Specialists' Relative Caregiver Packet have been updated to reflect the use of the CFS 718-A. This form and packet are available to staff on the Templates (T:) drive.

The Initial Foster Family Home License Application Packet for Relative Caregivers has been updated to reflect the use of the CFS 718-A. This packet is available to staff on the Templates (T:) drive and the DCFS Website.



## **V QUESTIONS**

Questions concerning this Action Transmittal should be directed to the Office of Child and Family Policy by emailing the OCFP - Mailbox on Outlook. Persons and agencies not on Outlook can e-mail questions to [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

## INFORMATION TRANSMITTAL

**DATE:** December 8, 2014  
**TO:** DCFS and Purchase of Service Agency (POS) Staff  
**FROM:** George Vennikandam, Acting Deputy Director, Division of Regulation and Monitoring  
**SUBJECT:** New Background Check Forms  
**EFFECTIVE:** Immediately

### I. PURPOSE

The purpose of this Information Transmittal is to inform Department and POS staff of the consolidation of several background check forms into two new forms.

### II. PRIMARY USERS

The primary users of these forms are licensing staff of the Department and POS agencies.

### III. FORMS

The forms **CFS 718, Authorization for Background Check, CFS 718-E, Authorization for Background Check for Employees-Volunteers of Child Care Facilities, CFS 718-RL, Authorization for Background Check for Relatives applying for a Foster Home License, and CFS 718-W, Authorization for Background Check for Wards of the State**, have been consolidated into new forms **CFS 718-A, Authorization for Background Checks for Foster Care and Adoption**, and **CFS 718-B, Authorization for Background Checks for Child Care**.

Staff should check with their supervisory staff if they are unclear which form to use. As rules and procedures are amended, references to the forms no longer in use will be changed to reflect which of the two new forms is appropriate. The new forms may be ordered from Central Stores and are also available on the T-Drive and D-net. Spanish versions of the new forms will be made available as soon as the translation is completed.

### IV. QUESTIONS

Questions regarding this Information Transmittal should be directed to supervisory staff or to the Office of Child and Family Policy at **217-524-1983** or e-mail to OCFP - Mailbox on Outlook. Persons and agencies not on Outlook can e-mail questions to [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

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