

<b>ORP Office of Rules and Procedures</b>	<b>Department of Children and Family Services</b>	
	<b>Index No: 98-19</b>	<b>Issuance Date: August 7, 1998</b>
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	<b>Distribution: Licensing Staff, Administrative Staff (A,L)</b>	
	<b>Key Words: 89 IAC 407, Day Care Centers, 89 IAC 385, Background Checks, Background Checks of Board Members</b>	
	<b>Approved by:</b>	

### Interpretation

**Applicable To:** Licensed Day Care Centers

**Policy Citation:** 385.20 Definitions

"Access to children" means a child care facility employee's job 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 or 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.

"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 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, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) and other state child protection systems, 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 Statewide Child Sex Offender Registry.

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"Governing body" means the board of directors of a corporation; otherwise, the term means the owner(s) or other person(s), agency, association or organization legally responsible for the operation of the child care facility.

"Persons subject to background checks" means:

- the operator(s) of the child care facility; and
- all current and conditional employees of the child care facility; and
- any persons who are used to replace or supplement staff; and
- any person who has access to children, as defined in this Section; and
- any person who provides services that allow unsupervised access to children if the requirement for background checks is a condition of the 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 applicant(s) and all 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.

407.110: The day care center shall require all persons subject to background checks, as defined in 89 Ill. Adm. Code 385.20, to furnish written information regarding any criminal convictions, to submit to fingerprinting and to authorize the background checks required by 89 Ill. Adm. Code 385, Background Checks.

**Question:** **Are board members of a day care center required to have background checks if they have signed the application form for licensure but will not have access to the children?**

**Discussion:** Section 407.110 of the Licensing Standards for Day Care Centers refers to the 89 Ill. Adm. Code 385 to regulate background checks for individuals associated with the applications for day care center licensure.

Day care center board members are defined as the "governing body" in rule 385, section 385.20. In the same section, "Persons subject to background checks" does not list members of the governing body as being required to be fingerprinted. Signature on the day care licensing application form does not authorize the Department to do a background check on the applicants.

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**Response: Board members who do not have unsupervised access to children are not required to give the Department authorization for background checks.**