

Working Group to Study Background Checks for Child Care Facilities and Providers

Wednesday, September 28, 2016 @ 1pm
State House Room 438 (Judiciary Committee Room)
Augusta, Maine

SECOND MEETING AGENDA

- 1:00pm-1:15pm: Welcome from chairs and introductions
- 1:15pm-1:20pm: Update on Department requests (*Alyson Mayo*)
- Costs of background checks from JUD committee analyst's previous communications with Matt Ruel (from SBI)
- 1:20pm-1:40pm: Participation of Police Chiefs and Sheriffs in Fingerprinting
- Bath Chief of Police Michael Field (handout *Alyson Mayo*)
 - Feedback from Sheriff Joel Merry (in person)
- 1:40pm-2:00pm: Expenditures of Child Care and Development Block Grant (CCDBG) within the Child Care and Development Fund (CCDF) program (*Office of Fiscal and Program Review, Luke Lazure, Fiscal Analyst*)
- 2:00pm-2:15pm: Update on Federal Rules (*Janet Stocco*)
- 2:15pm-2:45pm: Answers to Information Requests (*Janet Stocco*)
- 2:45pm-3:00pm: Examples of other states with "fingerprinting card" programs
- 3:00pm: Adjourn until 6:30 (public comment period)

All Federal Block Grant Expenditures to Apprpr 056301
Two Apprpr Names of: CHILD CARE DEVELOPMENT FUND BL & CHILD CARE SERVICES

APPROP 56301
 APPROP_TITLE (AII)

FUND	UNIT	UNIT_NM	2015	2016 Grand Total
15	563	CHILD CARE SERVICES	\$205.89	(\$4,975.53)
	5507	CHILD CARE SERVICES ADMIN	\$164.60	\$41,492.27
	8710	DISCRETIONARY	\$7,628,895.37	\$8,693,769.44
	8711	MATCHING	\$1,176,144.20	\$16,322,664.81
	8713	ADMINISTRATION	\$48,242.54	\$687,990.85
	8715	MANDATORY FUND	\$3,128,221.75	\$99,997.37
	8741	QUALITY SET-ASIDE	\$24,727.81	\$1,810,739.98
	8742	DISCRETIONARY CC-RDC/VOUCHERS	\$489,153.05	\$4,938,961.73
	8747	INFANT/TODDLER SET-ASIDE	\$24,727.81	\$876,118.43
	8748	SCHOOL AGE SET-ASIDE	\$489,153.05	\$482,621.21
	8762	DISCRETIONARY CC - SLOTS	\$65,166.61	\$618,030.26
			\$117,878.22	\$117,878.22
Grand Total			\$12,560,921.82	\$13,456,588.05

All General Fund Expenditures to Apprpr 056301
Two Apprpr Names of: CHILD CARE DEVELOPMENT FUND BL & CHILD CARE SERVICES

APPROP 56301
 APPROP_TITLE (AII)

FUND	UNIT	UNIT_NM	2015	2016 Grand Total
10	8710	DISCRETIONARY	\$96,522.04	\$353,761.88
	8741	QUALITY SET-ASIDE	\$68,046.62	\$68,046.62
	8762	DISCRETIONARY CC - SLOTS	\$164,568.66	\$13.59
Grand Total			\$353,775.47	\$518,344.13

WORKING GROUP TO STUDY BACKGROUND CHECKS FOR CHILD CARE FACILITIES AND PROVIDERS
COMPARISON OF PROPOSED AND FINAL FEDERAL CCDF RULES

Note: Differences between the proposed and final rules are indicated in **boldface** type.

TASK 3: Recommend who should be subject to the background checks

	Proposed Federal Rule 45 C.F.R. § 98.43(a)(2)(ii)	Final Federal Rule 45 C.F.R. § 98.43(a)(2)(ii)	ACF Comments
INDIVIDUALS WITH ACCESS TO CHILDREN	An individual age 18 or over “whose activities involve the care or supervision of children . . . or unsupervised access to children”	An individual “whose activities involve the care or supervision of children . . . or unsupervised access to children”	Based on public comments received on the proposed rule that a number of states allow individuals younger than 18 to be employed by child care providers, ACF has removed the reference to “age 18 or older” from the final rule. Any individual, regardless of age, who is employed by a child care provider for compensation is required to complete comprehensive background checks.
OTHER CHILD CARE EMPLOYERS	An individual age 18 or over “who is employed by a child care provider for compensation, including contract employees or self-employed individuals”	An individual “who is employed by a child care provider for compensation, including contract employees or self-employed individuals”	Public comments on the proposed rule asked for clarification on who is included in the definition of child care staff member. ACF responds that the definition “encompasses not only caregivers, teachers, or directors, but also janitors, cooks, and other employees of a child care provider who may not regularly engage with children, but whose placement at the facility gives them the opportunity for unsupervised access The final rule adds the terms ‘contract employees’ and ‘self-employed individuals’ to the definition of ‘child care staff member.’ These terms are meant to clarify the definition, particularly for family child care providers. Many family child care providers are self-employed individuals who own their own businesses The definition of child care staff member generally covers any individual who is employed by the child care provider and any individual who may have unsupervised access to children in care.”
OTHERS	“Any individual residing in a	“Any individual residing	Public comments from several states on the proposed rule

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	Proposed Federal Rule 45 C.F.R. § 98.43(a)(2)(ii)	Final Federal Rule 45 C.F.R. § 98.43(a)(2)(ii)	ACF Comments
	family child care home who is age 18 or older"	in a family child care home who is age 18 or older"	<p>recommended checking individuals over ages 12, 13 or 16 to mirror current state policy and practice. ACF declines to require background checks for individuals under age 18 in family child care homes. However, states that check individuals younger than age 18 may continue checking all background check components permitted by State law. ACF allows states the flexibility to follow current state laws and registry policies to check those individuals younger than 18 in family child care homes; however, ACF strongly encourages states to implement a waiver process that meets the recommendations of the U.S. Equal Employment Opportunity Commission for any additional disqualifying crimes (U.S. Equal Employment Opportunity Commission, <i>Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964</i>, http://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf).</p>

Additional Clarification on Volunteers: A few public comments asked for clarification around volunteers. ACF responds that “volunteers who provide infrequent and irregular service that is supervised or parent volunteers who are supervised do not meet the definition of child care staff member . . . Volunteers are not specifically included in the Act, nor have we specifically included them in the regulation. We are allowing States the discretion to create their own policies and screening processes for volunteers. However, it is ACF’s view that volunteers who have not had background checks may not be left with children unsupervised. Volunteers who have unsupervised access to children must have background checks that comply with the statute. These volunteers will be subject to the same disqualifications and appeals process as described in the Act and regulations. As with other adults in the household, we strongly discourage States from adding additional disqualifications outside the Act. We also encourage Lead Agencies to require that volunteers who have not had background checks be easily identified by children and parents, for example through visible name tags or clothing.”

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TASK 4: Recommend whether the law should provide for contingent or provisional hiring while background checks are pending

	Proposed Federal Rule 45 C.F.R. § 98.43	Final Federal Rule 45 C.F.R. § 98.43	Comments
WHEN BACKGROUND CHECK REQUEST MUST BE SUBMITTED	"A child care provider shall submit [the background check] request . . . prior to the date an individual becomes a child care staff member of the provider." § 98.43(d)(2)(i)	"A child care provider shall submit [the background check] request . . . prior to the date an individual becomes a child care staff member of the provider." § 98.43(d)(2)(i)	
WHETHER INDIVIDUAL MAY WORK WHILE REQUEST IS PENDING	"A prospective staff member may begin work for a child care provider . . . after the provider has submitted such a request if the staff member is supervised at all times by an individual who received a qualifying result on a background check . . ." § 98.43(d)(4)	A prospective staff member may begin work for a child care provider . . . after completing either the check described at paragraph (b)(1) [FBI fingerprint check using Next Generation Identification] or (b)(3)(i) [State criminal registry or repository, with the use of fingerprints being (A) Required in the State where the staff member resides; (B) Optional in other states] . . . Pending completion of all background check	Some commenters were concerned that this provision as proposed did not protect children's health and safety. ACF agrees with the commenters, and the final rule allows a prospective staff member to begin work while under supervision <u>after</u> completing the FBI fingerprint check or the search of the state criminal repository using fingerprints. Until all the background check components have been completed, the prospective staff member must be supervised at all times by someone who has already received a qualifying result on a background check within the past five years. States may pose additional requirements beyond this minimum. In addition, ACF encourages Lead Agencies to require child care providers to inform parents about background check policies and any provisional hires they may have. Allowing provisional hiring does offer more flexibility, but it is also important that Lead Agencies ensure that any provisional status is limited in scope and implemented with transparency.

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Proposed Federal Rule 45 C.F.R. § 98.43	Final Federal Rule 45 C.F.R. § 98.43	Comments
	components . . . the staff member must be supervised at all times by an individual who received a qualifying result on a background check . . .” § 98.43(d)(4)	

TASK 5: Recommend who is responsible for payment of costs associated with the background checks (and explore options, including the application of federal grant funds, to defray all or some of the initial and ongoing additional costs)

Proposed Federal Rule 45 C.F.R. § 98.43	Final Federal Rule 45 C.F.R. § 98.43	Comments
AMOUNT OF FEE “Fees that a State . . . may charge for the costs of processing applications and administering a criminal background check . . . shall not exceed the actual costs for the processing and administration.” § 98.43(f) Proposed Rule silent on this issue. However, the Executive	“Fees that a State . . . may charge for the costs of processing applications and administering a criminal background check . . . shall not exceed the actual costs for the processing and administration.” § 98.43(f) Final Rule silent on this issue. However, in responding to public comments in the Final	
WHO PAYS		

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Proposed Federal Rule 45 C.F.R. § 98.43	Final Federal Rule 45 C.F.R. § 98.43	Comments
<p>Summary to the proposed rules states:</p> <p>“Lead agencies have the flexibility to determine who pays for background checks (e.g., the provider, the applicant or the Lead agency) . . . At Lead Agency discretion, CCDF [grant] funds may be used to pay the costs of background checks.”</p>	<p>Rule, ACF states:</p> <p>“The intent of the Act is not to create additional burdens for certain provider groups. At Lead Agency discretion, CCDF funds may be used to pay the costs of background checks, including legally exempt and family child care providers, and their household members.”</p>	

ADDITIONAL INFORMATION: Components of a Criminal Background Check

Proposed Federal Rule 45 C.F.R. § 98.43(b)	Final Federal Rule 45 C.F.R. § 98.43(b)	Comments
<p>CRIMINAL BACKGROUND CHECK COMPONENTS</p> <p>(1) A Federal Bureau of Investigation fingerprint check using Next Generation Identification</p> <p>(2) A search of the National Crime Information Center’s</p>	<p>(1) A Federal Bureau of Investigation fingerprint check using Next Generation Identification</p> <p>(2) A search of the National Crime Information Center’s</p>	<p>After extensive consultation with the FBI and other subject-matter experts, ACF made technical changes to address duplication among the components.</p> <p>Because of the challenges identified by both public comments and ACF, ACF will not begin to determine compliance with the requirement to search the NCIC’s NSOR until after guidance is</p>

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Proposed Federal Rule 45 C.F.R. § 98.43(b)	Final Federal Rule 45 C.F.R. § 98.43(b)	Comments
<p>National Sex Offender Registry; and</p> <p>(3) A search of the following registries, repositories, or databases in the State where the child care staff member resides and each State where such staff member resided during the preceding five years:</p> <p>(i) State criminal registry or repository using fingerprints;</p> <p>(ii) State sex offender registry or repository; and</p> <p>(iii) State-based child abuse and neglect registry and database</p>	<p>National Sex Offender Registry; and</p> <p>(3) A search of the following registries, repositories, or databases in the State where the child care staff member resides and each state where such staff member resided during the preceding five years:</p> <p>(i) State criminal registry or repository with the use of fingerprints being:</p> <p>(A) Required in the State where the staff member resides;</p> <p>(B) Optional in other States;</p> <p>(ii) State sex offender registry or repository; and</p> <p>(iii) State-based child abuse and neglect registry and database</p>	<p>issued by ACF and the FBI. ACF has been working closely with the FBI to find solutions for State access. ACF plans to release guidance that will be shared with both State Lead Agencies and State Identification Bureaus. ACF expects that Lead Agencies will be required to partner with local law enforcement to perform NCIC checks of the NSOR. This guidance will give States further instruction in how to search the NCIC's NSOR and how to utilize the results. ACF understands that States may not be able to begin implementing the check of the NCIC's NSOR until the specific guidance is released. ACF will address implementation timeframes for this particular search in the future guidance. Lead Agencies should begin to form partnerships with local law enforcement and State Identification Bureaus in order to meet the requirement to check the NCIC's NSOR database.</p> <p>In response to comments regarding the challenges of searching fingerprint repositories in other states, ACF is removing the proposal to check other states' criminal repositories using fingerprints. It was not ACF's intent to create an additional burden for States. Instead, in the final rule, ACF is requiring States to do a fingerprint-based check of the criminal repository only in the State where the individual resides. Use of fingerprints is optional in other States where the individual resided within the past five years.</p>



Listen

Approved CCDF Plans (FY 2016-2018)

Published: June 16, 2016

Categories: Child Care Development Fund (CCDF) Reporting
Topics: CCDF Plans, States/Territories

Plans due March 1, 2016
to be effective June 1, 2016

On November 19, 2014, the President signed the Child Care and Development Block Grant (CCDBG) Act of 2014 into law. This Law reauthorizes the Child Care and Development Fund (CCDF) and makes significant advances by defining health and safety requirements for child care providers, outlining family-friendly eligibility policies, and ensuring parents and the general public have transparent information about the child care choices available to them. The CCDBG Act also changed the Plan cycle for CCDF from a biennial to a triennial Plan period; thus, the FY 2016-2018 Plan will cover a 3-year period. The Plan submission deadline was extended from July 1, 2015 to March 1, 2016, with an effective date of June 1, 2016 through September 30, 2018.

The Office of Child Care (OCC) is pleased to release PDF copies of all approved FY 2016-2018 CCDF Plans that became effective June 1, 2016. The Plan serves as the application for CCDF funds by providing a description of, and assurance about, the grantee's child care program and all services available to eligible families. This CCDF Plan is not the same as previous versions. OCC asked States and Territories to write their Plans based on a reasonable interpretation of the Act, pending completion of a final regulation. States and Territories had the option to outline an implementation plan for one or all of 26 new areas if the State/Territory was not yet able to certify compliance. Thus, these Plans are conditionally approved until each State/Territory fully implements all new requirements of the CCDBG Act of 2014. The OCC will partner with States and Territories to support and monitor the successful and timely implementation of all provisions of the Act.

The posted CCDF Plans reflect the services and activities as reported by all 56 Lead Agencies in their CCDF Plans for Fiscal Years 2016-2018. The CCDF Plans offer a snapshot into current and planned efforts, initiatives and implementation plans for each State/Territory over the next two years through September 30, 2018, but these Plans are not a catalog of all activities undertaken by the State/Territory. ACF is not responsible for the contents of these CCDF Plans. Reference to any specific commercial products, process, service, manufacturer, or company does not constitute its endorsement or recommendation by the U.S. Government, the Department of Health and Human Services, or the Administration for Children and Families (ACF).

NOTE: Persons using assistive technology may not be able to fully access information in this file. For assistance, email 508issues@gdit.com or call (202) 690-6782.

Please see the [Frequently Asked Questions \(FAQs\)](https://www.acf.hhs.gov/programs/occ/resource/release-of-ccdf-plans-to-office-of-child-care-occ-website-frequently-asked-questions-faqs) (<https://www.acf.hhs.gov/programs/occ/resource/release-of-ccdf-plans-to-office-of-child-care-occ-website-frequently-asked-questions-faqs>) for additional details.

Below please find the links to PDF copies of each CCDF Grantee's State Plan (as of June 24, 2016).

Alabama (https://www.acf.hhs.gov/sites/default/files/occ/alabama_stplan_pdf_2016.pdf)
 Alaska (https://www.acf.hhs.gov/sites/default/files/occ/alaska_stplan_pdf_2016.pdf)
 American Samoa (https://www.acf.hhs.gov/sites/default/files/occ/american_samoa_stplan_pdf_2016.pdf)
 Arizona (https://www.acf.hhs.gov/sites/default/files/occ/arizona_stplan_pdf_2016.pdf)
 Arkansas (https://www.acf.hhs.gov/sites/default/files/occ/arkansas_stplan_pdf_2016.pdf)
 California (https://www.acf.hhs.gov/sites/default/files/occ/california_stplan_pdf_2016.pdf)
 Colorado (https://www.acf.hhs.gov/sites/default/files/occ/colorado_stplan_pdf_2016.pdf)
 Connecticut (https://www.acf.hhs.gov/sites/default/files/occ/connecticut_stplan_pdf_2016.pdf)
 Delaware (https://www.acf.hhs.gov/sites/default/files/occ/delaware_stplan_pdf_2016.pdf)
 District of Columbia (https://www.acf.hhs.gov/sites/default/files/occ/district_of_columbia_stplan_pdf_2016.pdf)
 Florida (https://www.acf.hhs.gov/sites/default/files/occ/florida_stplan_pdf_2016.pdf)
 Georgia (https://www.acf.hhs.gov/sites/default/files/occ/georgia_stplan_pdf_2016.pdf)
 Guam (https://www.acf.hhs.gov/sites/default/files/occ/guam_stplan_pdf_2016.pdf)
 Hawaii (https://www.acf.hhs.gov/sites/default/files/occ/hawaii_stplan_pdf_2016.pdf)
 Idaho (https://www.acf.hhs.gov/sites/default/files/occ/idaho_stplan_pdf_2016.pdf)
 Illinois (https://www.acf.hhs.gov/sites/default/files/occ/illinois_stplan_pdf_2016.pdf)
 Indiana (https://www.acf.hhs.gov/sites/default/files/occ/indiana_stplan_pdf_2016.pdf)
 Iowa (https://www.acf.hhs.gov/sites/default/files/occ/iowa_stplan_pdf_2016.pdf)

Maine Child Care Development Fund (CCDF) Plan with Conditional Approval Letter for FY 2016-2018
Date: Monday, June 27, 2016

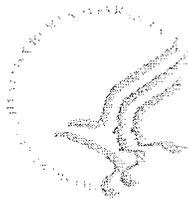
The Office of Child Care (OCC) is pleased to release the PDF (Portable Document Format) copy of the approved FY 2016-2018 Maine CCDF Plan that became effective June 1, 2016 and the conditional approval letter. The Plan serves as the application for CCDF funds by providing a description of, and assurance about, the grantee's child care program and all services available to eligible families. OCC asked States and Territories to write their Plans based on a reasonable interpretation of the Act, pending completion of a final regulation. States and Territories had the option to outline an implementation plan for one or all of the 26 new areas if the State/Territory was not yet able to certify compliance. Thus, these Plans are conditionally approved until each State/Territory fully implements all new requirements of the CCDBG Act of 2014. The OCC will partner with States and Territories to support and monitor the successful and timely implementation of all provisions of the Act. As provided for in the applicable statutes and regulations, the Lead Agency has the flexibility to amend their program at any time. All amendments must be submitted to OCC for approval within 60 days of the effective of the change.

Please find the following two documents within this PDF:

2016-2018 Maine CCDF Plan Conditional Approval Letter – OCC issued a letter with the conditions of approval for each State and Territory. In reviewing plans and waiver/extension requests, OCC gave careful consideration to the statutory conditions outlined in the Act, as well as the length of time requested, with the goal of having all provisions related to the Act fully implemented by October 1, 2018 corresponding to the start of the FY2019-2021 CCDF Plan period. The approval letter covers the CCDF Plan for the period of June 1, 2016, through September 30, 2018. A “conditionally approved” plan is a fully approved plan with conditions to be met based on waiver requests, if applicable, and implementation and corrective action plans for unmet requirements. The conditions will be deemed fully met once all provisions in the Child Care and Development Block Grant (CCDBG) Act of 2014 are fully implemented.

2016-2018 Maine CCDF Plan - The Plan describes the CCDF program to be administered by Maine for the period 6/1/2016 – 9/30/2018 as conditionally approved by OCC. The Plan serves as the application for CCDF funds by providing a description of, and assurance about, the grantee's child care program and all services available to eligible families. As provided for in the applicable statutes and regulations, the Lead Agency has the flexibility to modify this program at any time, including amending the options selected or described. For purposes of simplicity and clarity, the specific provisions of applicable laws printed therein are sometimes paraphrases of, or excerpts and incomplete quotations from, the full text.

NOTE: *The CCDF Plan reflects the services and activities as reported by the Maine Lead Agency in their CCDF Plans for Fiscal Years 2016-2018. The CCDF Plans offer a snapshot into current and planned efforts, initiatives and implementation plans for each State/Territory through September 30, 2018. These Plans are not a catalog of all activities undertaken by the State/Territory. Administration for Children and Families (ACF) is not responsible for the contents of these CCDF plans.*



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington DC 20201 | www.acf.hhs.gov

June 10, 2016

Mary C. Mayhew, Commissioner
Department of Health and Human Services
11 State House Station
Augusta, Maine 04333

Dear Commissioner Mayhew:

The Office of Child Care (OCC) recognizes that there are many new requirements included in the Child Care and Development Block Grant (CCDBG) Act of 2014 that you are working to implement during this Plan period. We appreciate the time and energy that you put into developing your Child Care and Development Fund (CCDF) Plan to reform and effectively administer your program. I am pleased to inform you that the Maine CCDF Plan for the period of June 1, 2016, through September 30, 2018, has been conditionally approved. A "conditionally approved" plan is a fully approved plan with conditions to be met based on your waiver requests, if applicable, and implementation plans for unmet requirements. The conditions will be deemed fully met once all provisions in the CCDBG Act of 2014 are fully implemented and implementation plan action steps are completed. At that time the Maine CCDF Plan will be approved without conditions. OCC gave careful consideration to the statutory conditions outlined in the Act, as well as the length of time requested, with the goal of having all provisions related to the Act fully implemented by October 1, 2018 corresponding to the start of the FY2019-2021 CCDF Plan period.

The following conditions apply to your CCDF Plan:

- Health and Safety Training Corrective Action Plan – The Administration for Children and Families considers health and safety training critical to reducing risk of injury and death for children receiving assistance. According to the Program

Instruction CCDF-ACF-PI-2015-09 issued December 2015, all new and existing caregivers and teachers serving children receiving CCDF assistance must have completed these training requirements by this date. Maine will not meet the health and safety training provision by the effective date of September 30, 2016; therefore you will be on a Corrective Action Plan starting October 1, 2016. You will now have an additional year to achieve this goal. You have 60 days following receipt of this letter to formally submit your extended timeline for implementing this requirement, not to exceed one year, by completing or revising the Implementation Plan at 5.1.6b in the ACF-118 system.

Key principles of the CCDF are to provide equal access to child care for children receiving child care assistance and to ensure parental choice. Provider payment rates set too low undermine these principles. As you are aware, the CCDBG Act of 2014 requires states and territories to take the cost of quality into account when setting rates, and to set rates based on the results of the most recent market rate survey or alternative methodology. We continue to be concerned that your rates may not allow for equal access. OCC plans to make review of payment rates a priority for our upcoming implementation monitoring visits. Thus, the conditional approval of your Plan does **not** constitute a final determination that your payment rates are sufficient to provide access to child care services for eligible families that are comparable to those provided to families that do not receive subsidies, as required by law.

You will receive a Notice of Grant Award in October 2016 from the Office of Administration in the Administration for Children and Families. The notice will include the amount of your award and any additional terms and conditions for the receipt of CCDF program funds. During the effective period of this plan, any substantial changes to the Maine program must be submitted as a plan amendment to your Regional Office for approval in accordance with 45 CFR 98.18(b).

We remind you that your CCDF-funded child care program for in-home providers must comply with all applicable Federal laws and regulations, including Federal wage and income tax laws governing domestic workers. Questions regarding Federal wage laws should be directed to your local or district office of the Wage and Hour Division within the U.S. Department of Labor. Likewise, questions regarding Federal income tax laws should be directed to your local or district office of the Internal Revenue Service.

We look forward to working together toward implementation of the CCDBG Act of 2014 and promoting the early learning and development of children along with family economic stability and success. If you have any questions, please contact Shireen Riley, Child Care

Page 3 - Mary C. Mayhew, Commissioner

Program Manager, Office of Child Care at (617) 565-1152 or shireen.riley@acf.hhs.gov.
Thank you for all you do each day for children and families.

Sincerely,

Rachel Schumacher
Director
Office of Child Care

cc: Elissa Wynne, Child Care Services Team Leader
Liz Ray, TANF/ASPIRE Senior Program Manager
Shireen Riley, Regional Program Manager, Office of Child Care Region I

Child Care and Development Fund (CCDF) Plan For Maine FFY 2016-2018

1 Define CCDF Leadership and Coordination with Relevant Systems

Implementation of the requirements of the CCDBG Act of 2014 will require leadership and coordination between the child care assistance program and other child- and family-serving agencies, services, and supports at the state and local levels. ACF recognizes that each grantee must identify the most appropriate entities and individuals to lead and participate in implementation based on the context within that State or Territory. This will include those that manage various components of CCDF-funded activities and requirements (fiscal, subsidy, health and safety monitoring, and continuous quality improvement) as well as other public and private partners.

This section collects information to help ACF understand the stakeholders convened and consulted to develop the Plan, where authority lies to make policy decisions and program changes, and who is responsible for implementing the blueprint for action the Plan describes. For example, the law requires that, at the option of the Tribes, State/Territory Lead Agencies must collaborate and coordinate with Indian tribes or tribal organizations in the State in a timely manner in the development of the CCDF Plan. ACF expects that new requirements in the law will necessitate that grantees build partnerships with other agencies and organizations to better link the children and families receiving financial assistance to information, services and resources regarding other programs for which they may be eligible, including developmental screenings for children, and other resources (also in section 2). In addition, States and Territories must describe how public-private partnerships are being used to increase the supply and quality of child care services.

1.1 CCDF Leadership

The Governor of a State or Territory shall designate an agency (which may be an appropriate collaborative agency), or establish a joint inter-agency office, to represent the State (or Territory) as the Lead Agency. The Lead Agency agrees to administer the program in accordance with applicable Federal laws and regulations and the provisions of this Plan, including the assurances and certifications appended hereto. (658D, 658E(c)(1))

are required to comply with background check requirements set forth in the Child Care Subsidy Program rules.

Yes, some relatives are exempt from inspection requirements.

If the State/Territory exempts some relatives from the inspection requirements, describe which relatives are exempt from which requirements (all or some) and include how the State/Territory ensures the health and safety of children in relative care.

No, relatives are not exempt from inspection requirements.

5.3 Criminal Background Checks

The CCDBG Act of 2014 added new requirements for States and Territories receiving CCDF funds to conduct criminal background checks on child care staff members and prospective staff members of child care providers. States and Territories must have requirements, policies, and procedures in place to conduct criminal background checks for staff members of child care providers (other than relatives) that are licensed, regulated or registered under State/Territory law or receive CCDF funds. Background check requirements apply to any staff member who is employed by a child care provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children. For family child care homes, this includes the caregiver requesting a check of him/herself, as well as other adults in the household that may have unsupervised access to children. These provisions must be in place no later than September 30, 2017.

The CCDBG Act of 2014 specifies what a comprehensive criminal background check includes and a child care provider must submit a request to the appropriate State/Territory agency for a criminal background check for each child care staff member, including prospective child care staff members at least once every 5 years. A criminal background check must include a search of: State criminal and sex offender registry in the State where the staff member resides and each State where the staff member has resided over the past 5 years; State child abuse and neglect registry in the State where the staff member resides and each State where the staff member has resided over the past 5 years, National Crime Information Center (run by the FBI); FBI fingerprint check using Next Generation Identification ; and National Sex Offender Registry. Child care staff members cannot be employed by a provider receiving CCDF if they refuse a background check; make materially false statements in connection with the background check; are registered or required to be registered on the State or National Sex Offender Registry; have been convicted of a felony consisting of: murder, child abuse or neglect, crimes against children, spousal abuse, crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or subject to an individual review, at the State's option, a drug-related offense committed during the preceding 5 years; or have been convicted of a violent misdemeanor committed as an adult against a child.

Timeliness of background checks - The State/Territory must conduct the background checks as quickly as possible and shall not exceed 45 days after the child care provider submitted the request. The State/Territory shall provide the results of the background check in a statement that indicates whether the staff member is eligible or ineligible, without revealing specific disqualifying information. If the staff member is ineligible, the State/Territory will provide information about each disqualifying crime to the staff member.

Fees for background checks - Fees that a State/Territory may charge for the costs of processing applications and administering a criminal background check may not exceed actual costs to the State/Territory for processing and administration.

Transparency - The State/Territory must ensure that policies and procedures for conducting criminal background checks are published on the State/Territory's consumer education website (also see section 2.3) or other publicly available venue.

Appeals process - The State/Territory shall have a process for a child care staff member to appeal the results of their background check to challenge the accuracy and completeness.

Privacy considerations - Lead Agency may not publicly release the results of individual background checks.

5.3.1 Describe the status of the State/Territory's requirements, policies, and procedures for criminal background checks for child care staff members and child care providers.

Fully implemented and meeting all Federal requirements outlined above.

List the policy citation within the Lead Agency's rules and describe the policies and procedures for criminal background checks using 5.3.2 through 5.3.9 below.

Not implemented. The State/Territory must provide a State/Territory-specific implementation plan for achieving compliance with this requirement, including planned activities, necessary legislative or regulatory steps to complete, and target completion date (no later than September 30, 2017). Please provide brief text responses and descriptions only. Do not cut and paste charts or tables here. Your responses will be consolidated electronically into an Implementation Plan summary report.

Overall Target Completion Date (no later than September 30, 2017) 09/30/2017

Overall Status - Describe the State/Territory's overall status toward complete implementation for this requirement(s) (not yet started, partially implemented, substantially implemented, other) Partially implemented

Implemented requirement(s) - Identify any requirement(s) implemented to date if applicable

The Maine DHHS Division of Licensing and Regulatory Services is currently responsible for conducting background checks for center and Nursery School

Directors along with all family child care providers. These checks include State Bureau of Investigation, Bureau of Motor Vehicles, Child Welfare, and Maine Sex Offender Registry. The Maine DHHS Office of Child and Family Services is responsible for conducting background checks for the unlicensed providers who receive CCDF funds and the Maine DHHS Office for Family Independence is responsible for conducting background checks for TANF funded child care services. These checks include State Bureau of Investigation, Bureau of Motor Vehicles, child welfare, and Maine Sex Offender Registry. As part of the new child care system Maine will have a coordinated and consistent approach to conducting background checks on child care staff members.

Unmet requirement - Identify the requirement(s) to be implemented. Includes and a child care provider must submit a request to the appropriate State/Territory agency for a criminal background check for each child care staff member, including prospective child care staff members at least once every 5 years.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Projected start date for each activity:

Projected end date for each activity:

Agency - Who is responsible for complete implementation of this activity

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead

agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and

Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. A process for a child care staff member to appeal the results of their background check to challenge the accuracy and completeness.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rules public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating

agencies, etc.)

Comprehensive background check system development including appeal process and procedures

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Unmet requirement - Identify the requirement(s) to be implemented. National Crime Information Center (run by the FBI)

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of the comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS- Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS- Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead

agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development including NCIC

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
​DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Child care staff members cannot be employed by a provider receiving CCDF if they refuse a background check; make materially false statements in connection with the background check; are registered or required to be registered on the State or National Sex Offender Registry; have been convicted of a felony consisting of: murder, child abuse or neglect, crimes against children, spousal abuse, crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or subject to an individual review, at the State's option, a drug-related offense committed during the preceding 5 years; or have been convicted of a violent misdemeanor committed as an

adult against a child.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

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Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

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Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity
DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity
DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Provide the results of the background check in a statement that indicates whether the staff member is eligible or ineligible, without revealing specific disqualifying information.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background checks

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating

agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

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Comprehensive background check system development

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Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

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Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. If the staff member is ineligible, the State/Territory will provide information about each disqualifying crime to the staff member.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of the comprehensive background check

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Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

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Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

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DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Fees for background checks - Fees that a State/Territory may charge for the costs of processing applications and administering a criminal background check may not exceed actual costs to the State/Territory for processing and administration.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

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Partners - Who is the responsible agency partnering with the State/Territory lead

agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and

Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. State child abuse and neglect registry in the State where the staff member resides and each State where the staff member has resided over the past 5 years,

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check.

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check.

Projected start date for each activity: 07/01/2015

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Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating

agencies, etc.)

Comprehensive background check system development.

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-
Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead
agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet
requirement (e.g., legislative or rule changes, modify agreements with coordinating
agencies, etc.)

Phase-in implementatino of comprehensive background check program.

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-
Office of Child and Family Services
DHHS-Division of Licensing and
Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead
agency to complete implementation of this activity



Unmet requirement - Identify the requirement(s) to be implemented. FBI fingerprint
check using Next Generation Identification

Tasks/Activities - What specific steps will you take to implement the unmet
requirement (e.g., legislative or rule changes, modify agreements with coordinating
agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all
components of comprehensive background check

Projected start date for each activity: 09/01/2016

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Agency - Who is responsible for complete implementation of this activity DHHS-
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Partners - Who is the responsible agency partnering with the State/Territory lead

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Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and

Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Requirements, policies, and procedures in place to conduct criminal background checks for staff members of child care providers (other than relatives) that are licensed, regulated or registered under State/Territory law or receive CCDF funds.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of a comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rules public hearing and implementation to include all components of a comprehensive background check.

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet

requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

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Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

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Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Not publicly release the results of individual background checks. They may release aggregated data by crime as long as the data does not include personally identifiable information.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

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Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

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Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity
DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Background check requirements apply to any staff member who is employed by a child care provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children. For family child care homes, this includes the caregiver requesting a check of him/herself, as well as any other individuals in the household that may have unsupervised access to children.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

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Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. State criminal and sex offender registry in the State where the staff member resides and each State where the staff member has resided over the past 5 years;

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate checking the sex offender registry as part of the comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Unmet requirement - Identify the requirement(s) to be implemented. National Sex Offender Registry.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate sex offender registry check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Unmet requirement - Identify the requirement(s) to be implemented. Conduct the background checks as quickly as possible and shall not exceed 45 days after the child care provider submitted the request.

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of the comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity
DHHS-Office for Family Independence

Unmet requirement - Identify the requirement(s) to be implemented. Ensure that policies and procedures for conducting criminal background checks are published on the State/Territory's consumer education website

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Subsidy Rule public hearing and implementation to incorporate all components of comprehensive background check

Projected start date for each activity: 09/01/2016

Projected end date for each activity: 09/30/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Child Care Licensing Rule public hearing and implementation to include all components of a comprehensive background check

Projected start date for each activity: 07/01/2015

Projected end date for each activity: 08/31/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Comprehensive background check system development

Projected start date for each activity: 12/01/2014

Projected end date for each activity: 12/01/2016

Agency - Who is responsible for complete implementation of this activity DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office of Child and Family Services

Tasks/Activities - What specific steps will you take to implement the unmet requirement (e.g., legislative or rule changes, modify agreements with coordinating agencies, etc.)

Phase-in implementation of comprehensive background check program including posting policies and procedures on consumer education website

Projected start date for each activity: 03/01/2017

Projected end date for each activity: 11/01/2017

Agency - Who is responsible for complete implementation of this activity DHHS-Office of Child and Family Services
DHHS-Division of Licensing and Regulatory Services

Partners - Who is the responsible agency partnering with the State/Territory lead agency to complete implementation of this activity

DHHS-Office for Family Independence

5.3.2 Describe the process and procedures for conducting background checks in a timely manner, including which agency/entity is responsible and how the Lead Agency ensures that background checks performed by a 3rd party meet the requirements, protecting the privacy of child care staff members, and providing opportunities for applicants to appeal the results of background checks.

Describe:

Maine received a grant from Centers for Medicare & Medicaid Services (CMS) in order to

identify efficient, effective, and economical procedures for conducting background checks for direct service long-term care providers. The comprehensive new law creates an online single-portal Background Check Center (BCC) to screen individuals working in direct access positions with Maine's children, elders, and disabled citizens receiving care and support. The Maine DHHS will operate the BCC in coordination with the Maine Department of Public Safety (DPS), State Bureau of Identification and with other state and federal partners. The CCDF Lead Agency is partnering with the new Maine Background Check Center in order to meet the new requirements of CCDBG. The Maine Background Check Center will have an automated Name and DOB search criminal history record check. Child care providers will gain access to this system in 2017 after a rollout to the Long-term Care Industry in 2016. Public education, fee structure, and phase-in will mirror the rollout to Long-term care providers. Name-based background checks for Maine State Rapback are currently under development and will also be part of the system. Rapback is a mechanism that allows the Background Check Center to immediately inform the employer of any new criminal history record information against an employee that arises after the employee's pre-employment background check is completed.

The enabling legislation, LD 1439, PUBLIC Law, Chapter 299, An Act to Establish a Secure Internet-based Background Check Center for Providers of Long-term Care, Child Care and In-home and Community-based Services, authorizes DILRS to set the list of disqualifying offenses (including state and federal mandated civil and criminal offenses) through technical rule making. Maine's legislation package included an amendment which outlined the proposed independent waiver process for Maine's Background Check Center. The amendment as incorporated was passed in 2015 during the 127th Maine Legislative Session as a key component of the enabling background check legislation. DHHS DILRS has begun to identify and implement adjustments to its existing appeal processes, based on the new legislation. DILRS has begun to develop and implement manual work processes and automated technical build flows and processes based on the new legislation. The Maine Background Check Center project is building technical system interfaces to develop and implement an efficient, integrated and automated system for pre-employment registry checks. System features include

Petition for Waiver of Disqualifying Conviction - In the event that no other federal or state law mandates an employment prohibition, an employer that would like to pursue employing an otherwise disqualified employee can support a request for a department waiver of the employment ban.

Eligibility Report and Conditional Employment - the BCC generates a comprehensive, easy-

to-understand report that notifies employers when an individual is disqualified for employment. A disqualifying report discloses information sufficient for the employer to make employment decisions consistent with federal and state law, and for the applicant to challenge any inaccuracies (Errors Correction). Applicants challenging the report can be conditionally employed during the errors correction process. Conditional employment procedures will be outlined for providers needing to hire prior to receiving the BCC results.

Confidentiality - Any personally identifiable information and criminal history records are confidential. Employers may only use the limited information provided by the BCC to determine eligibility of an individual for new or continued employment. The confidential information or background check record may not be disseminated to anyone other than the employee.

User Fees - Fees will reflect Employer cost-savings and program sustainability associated with the efficiency of one-stop access to an integrated, comprehensive background check. Secure electronic payment (e-check; credit card). Child care providers will have access to a staged, phased-in fee schedule to provide a smooth transition and consideration for current employees in the field. Child care providers who serve children in the Child Care Subsidy Program will be eligible for a reduced fee.

Dynamic interaction - between Employers and the BCC is a key feature of the system. Employers create an online account to organize and track the background check status for all employees. The BCC features deadlines, emails reminders and reports to help employers with compliance and records management.

The BCC process - Employers begin with a 'free quick check' feature to screen applicants on public registries that list people already potentially ineligible for employment, such as the Medicare and Medicaid list of excluded persons, Maine Certified Nursing Assistant and Direct Care Worker Registry, and National Sex Offender Public Website, in addition to Maine's professional licensing database.

Quick check results - are returned within minutes. Employers can use these results to decide whether to proceed with the 'full background check' and obtain a criminal history record from the DPS State Bureau of Identification.

'Full Background Check' - The full background check screens individuals further to rule out disqualifying criminal convictions or substantiated findings of abuse, neglect and exploitation of adults and children.

New event monitoring - the BCC will provide automatic 'registry rechecks' to employers on their current employees. The system also utilizes a unique criminal records monitoring

feature to solve a problem all employers face regarding mandatory background checks - the need and costs associated with repeat background checks after an individual is hired.

5.3.3 Describe how the State/Territory is assisting other States process background checks, including which agency/entity is responsible for working with other states

Describe:

The Maine Background Check Center will have a quick check feature which will allow members of the public, including entities located out-of-state, to search public records. Identification Specialists will be available to assist with requests beyond the quick search function.

5.3.4 Does the State have a review process for individuals disqualified due to a felony drug offense to determine if that individual is still eligible for employment?

Yes.

Describe:

No.

5.3.5 Does the Lead Agency disqualify child care staff members based on their conviction for other crimes not specifically listed above?

Yes.

Describe:

The Child Care Subsidy Program disqualifies child care providers and staff members from participating in the Child Care Subsidy Program for all of the above-listed convictions including;

- A conviction for an OUI or driving to endanger within the last three years. The Department may approve Child Care Subsidy if another adult in the household (not the child care provider) is found to have this conviction and he or she signs a written agreement not to drive the children receiving a Child Care Subsidy.
- More than one OUI conviction, with the latest conviction in the last five years.
- Three or more convictions in the last five years for speeding in excess of twenty miles per hour over the speed limit by the child care provider or anyone designated to drive the children in care. The Department may approve Child

Care Subsidy if the child care provider signs a written agreement not to drive the children in his or her care.

No.

5.3.6 Does your State State/Territory exempt relatives (defined in CCDF regulations as grandparents, great-grandparents, siblings if living in a separate residence, aunts, and uncles, 98.41(A)(ii)(A)) from background checks?

- Yes, all relatives are exempt from all background check requirements.
- Yes, some relatives are exempt from the background check requirements. If the State /Territory exempts some relatives from background check requirements, describe which relatives are exempt. from which requirements (some or all).
Describe.

No, relatives are not exempt from background checks.

5.3.7 Describe how fees charged for completing the background checks do not exceed the actual cost of processing and administration, including how the State State/Territory ensures that 3rd party vendors or contractors do not charge fees that exceed the actual cost of processing and administration, if applicable.

Lead Agencies can report that no fees are charged if applicable:

Describe.

In the Maine Background Check Center (BCC) program fees will be charged to consumers in order to sustain the BCC. Fees charged will not exceed the actual cost of processing and administration. Fees will reflect employer cost-savings and program sustainability associated with the efficiency of one-stop access to an integrated, comprehensive background check. Secure electronic payment (e-check; credit card). Child care providers will have access to a staged, phased-in fee schedule to provide a smooth transition and consideration for current employees in the field. Child care providers who serve children in the Child Care Subsidy Program will be eligible for a reduced fee.

5.3.8 Describe how background check policies and procedures are published on the State/Territory consumer education website or made publicly available on another

venue:

Describe.

Public education about the Maine Background Check Center (BCC) is a major focus of the new system implementation. Frequently asked questions will be posted to the consumer education and Lead Agency website and shared with the public in various other venues. Staff will be trained and able to answer questions and refer consumers to Identification Specialists at the BCC. A phase-in fee schedule and timeline as well as a visual representation of disqualifying offenses will also be posted and shared. The State Administrator in partnership with DLRS will share BCC details with stakeholder groups and the PDN will share information with new and existing providers.

5.3.9 Does the Lead Agency release aggregated data by crime?

Yes.

List types of crime included in the aggregated data:

No.

6 Recruit and Retain a Qualified and Effective Child Care Workforce

Teacher-child interactions and relationships, intentional strategies to engage children and their parents, and use of curriculum and assessment to inform practices with children are key components of high quality child care. These require a competent, skilled, and stable workforce. Research has shown that specialized training and education, positive and well-organized work environments and adequate compensation promote teacher recruitment, stability, diversity of the early childhood workforce, and effectiveness with young children in child care. In addition, professional development strategies that emphasize on-site mentoring and coaching of teachers have emerged as promising to change practices with children and families. Professional development, whether training, on-site coaching and mentoring, registered apprenticeship, or higher education coursework, should reflect the research and best practices of child development in all domains and cultural competence.

The CCDBG Act of 2014 requires States and Territories to establish professional development and training requirements in key areas such as health and safety, early learning guidelines, responding to challenging behavior and engaging families. States and Territories are required to offer ongoing annual training and to establish a progression of professional development opportunities to improve knowledge and skills of CCDF providers. (658E(c)(2)(G)) An example

Current Background Checks of Child Care Facilities and Providers

As of September 2016 (prior to rulemaking pursuant to P.L. 2015, ch. 497)

Type of Provider	Number of Children Authorized	Current background check requirements
Home day care provider ¹	1 to 2 children whose care is paid for by state or federal funds	<ul style="list-style-type: none"> • criminal history from SBI • child protective services • motor vehicle record <p style="text-align: right;">22 M.R.S. § 8302-B(2).</p>
Family child care provider ² (in provider's home)	3 to 12 children under age 13 (who are not the provider's children and are not residing in the provider's home)	<ul style="list-style-type: none"> • criminal history (from SBI) • child protective services • motor vehicle record (staff only) <p>→ Any paid, unpaid, temporary or regular staff member or volunteer.³</p> <p>→ Any other adults "living in or frequenting" the premises.</p> <p style="text-align: right;">10-148 C.M.R. Ch. 33 § 2.22.</p>
Child care facilities⁴ (three types):		
Small child care facility (not in provider's home)	3 to 12 children under age 13	<ul style="list-style-type: none"> • criminal history from SBI • child protective services • annual motor vehicle check (if person is involved in transportation of minors) <p>→ Any paid, unpaid, temporary or regular staff member, director or volunteer (including parents who volunteer on a regular weekly basis in the capacity of a paid staff member).³</p> <p>→ All governing body members, trustees, partners, corporate officers, owners or operators who serve in a child caring capacity at the facility.</p> <p style="text-align: right;">10-148 C.M.R. Ch. 32, § 2.21.</p>
Nursery School	3 or more children ages 33 months – 8 years	
Child care center	13 or more children under age 13	

¹ See 22 M.R.S. § 8302-B.

² See 22 M.R.S. § 8301(1-A)(C) (definition); § 8302-A(2) (statutorily required rules for licensure); 10-148 C.M.R. Ch. 33 (Rules for the Certification of Family Child Care Providers).

³ In addition, applicants for a family child care provider certificate and the applicant and proposed director of a child care facility must authorize DHHS to review their records held by professional licensing boards or registers and any adult protective records. Ch. 33, § 2.5.1 and Ch. 32, § 2.4.1.

⁴ See 22 M.R.S. § 8301(1-A)(A, B, D, E) (definitions); § 8302-A(1) (statutorily required rules for licensure); 10-148 C.M.R. Ch. 32 (Rules for the Licensing of Child Care Facilities).

Maine Revised Statutes

Title 22: HEALTH AND WELFARE

Chapter 1673: CHILD CARE FACILITIES HEADING: PL 2001, c. 645, §5 (rpr)

§8302-A. RULES FOR CHILD CARE FACILITIES AND FAMILY CHILD CARE PROVIDERS

The commissioner shall adopt rules for child care facilities and family child care providers according to this section. Nursery schools are subject to the requirements of chapter 1675 and this section, except that subsection 1, paragraph F does not apply to nursery schools. [2005, c. 530, §8 (AMD) .]

1. Rules for child care facilities. Rules for child care facilities must include, but are not limited to, rules pertaining to the following:

- A. Child to staff ratios; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- B. The health and safety of the children and staff, including training on communicable diseases; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- C. Water for drinking and cooking; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- D. Wastewater; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- E. Rabies vaccinations for pets; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- F. The quality of the program provided; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- G. The age, criminal record and personal history of the provider of care for children and staff members; [2001, c. 645, §7 (AMD) .]
- H. The administration of medication; and [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- I. Licensing procedures. [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2005, c. 530, §8 (AMD) .]

2. Rules for family child care providers. Rules for family child care providers must include, and are limited to, rules pertaining to the following:

- A. Cardiopulmonary resuscitation; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- B. Water for drinking and cooking; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- C. Wastewater; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- D. Rabies vaccinations for pets; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]
- E. Recording the times, reasons and numbers of children involved when more than 12 children are cared for; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF) .]

F. Ongoing training for providers on health and safety issues, including training on communicable diseases. This training must be offered at times that are convenient to the providers; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF).]

G. Child to staff ratios; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF).]

H. Health and safety of the children and staff; [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF).]

I. Procedures for waivers of rules and for suspension and revocation of certification; and [1997, c. 494, §10 (NEW); 1997, c. 494, §15 (AFF).]

J. The age, criminal record and personal history of the family child care provider, staff and members of the household. [2005, c. 530, §8 (AMD).]

Rules adopted pursuant to paragraphs A to F are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A and rules adopted pursuant to paragraphs G to J are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2005, c. 530, §8 (AMD) .]

SECTION HISTORY

RR 1997, c. 1, §21 (COR). 1997, c. 494, §10 (NEW). 1997, c. 494, §15 (AFF). 2001, c. 645, §7 (AMD). 2005, c. 530, §8 (AMD).

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Maine Revised Statutes

Title 22: HEALTH AND WELFARE

Chapter 1673: CHILD CARE FACILITIES HEADING: PL 2001, c. 645, §5 (rpr)

§8302-B. PROVIDERS SUBJECT TO STANDARDS

A person who provides day care in that person's home for one or 2 children whose care is paid for by state or federal funds is not required to be certified as a family child care provider pursuant to section 8301-A but is subject to the provisions of this section. [2005, c. 530, §9 (AMD) .]

1. Investigation. The provider must pass a background investigation check by the State Bureau of Investigation, a check for involvement with child protective services and a motor vehicle record check.

[1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

2. Information provided by department. The department shall supply providers with information on the following topics:

A. Health and safety, including the control of communicable disease, and immunization requirements; [1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

B. Physical premises safety; and [1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

C. Training opportunities in health and safety, first aid and cardiopulmonary resuscitation and early care and education. [1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

[1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

3. Authority to inspect. The department has the authority to inspect the premises of the person providing the care.

[1997, c. 494, §11 (NEW); 1997, c. 494, §15 (AFF) .]

SECTION HISTORY

1997, c. 494, §11 (NEW). 1997, c. 494, §15 (AFF). 2005, c. 530, §9 (AMD) .

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CONSIDERATION OF CRIMINAL HISTORY BY MAINE'S PROFESSIONAL LICENSING ENTITIES

Fingerprint-based FBI and state background check required for professional license/permit:

- **Educators** (teachers, administrators, educational technicians, etc.). *20-A M.R.S. § 6103*
 - Note: unlicensed school employees must also be “approved” through a fingerprint-based background check. They receive a 5-year approval card from the Dept. of Education.
- **Real Estate Appraisers** *32 M.R.S. § 14021(7)*
- **Loan Brokers & Mortgage Loan Originators** *9-A M.R.S. §§ 6-105-A, 13-110*
- **Casino/Slot Machine Operators & Employees** *8 M.R.S. §§ 1011-1021*
- **Commercial beano/bingo hall operator** *17M.R.S. § 328*

Non-fingerprint background check required for professional license (authority 5 M.R.S. § 5301)

- *Professions within the Office of Professional and Occupational Regulation of DPFR*

Accountants	Physical Therapists
Architects, Landscape Architects, Interior Designers	Plumbers
Auctioneers	Podiatrists
Chiropractors	Psychologists
Complementary Health Care Providers	Radiographer/Radiation Therapist
Counselors	Respiratory Care Practitioners
Dieticians	Social Workers
Electricians	Veterinarians
Foresters	Real Estate Brokers
Funeral Services	Speech Therapists, Audiologists
Geologists/Soil Scientists	Maine Fuel Board licensees
Land Surveyors	Athletic Trainers
Manufactured Housing (sell, install, service)	Massage Therapists
Nursing Home Administrator	Interpreters for the Deaf
Occupational Therapists	Transient Sellers
Pharmacists	Barbers/Cosmetologists
	Charitable Solicitors
- *Boards Affiliated with Department of Professional and Financial Regulation*
 - Board of Dental Examiners (dentists, hygienists, denturists, etc.) – background check required
 - State Board of Optometry (optometrists) – background check required

 - Board of Licensure in Medicine (physicians, physician assistants, etc.) – self-report only, no check
 - Board of Licensure for Professional Engineers – self-report only, no check
 - Board of Osteopathic Licensure – no response received
 - Board of Nursing – no response received



2015

MAINE KIDS COUNT

Maine's **only** comprehensive report of the physical, social, economic and educational well-being of Maine children

EDUCATION AND LEARNING // 2015

EARLY LEARNING AND DEVELOPMENT PROGRAMS

	State Number	Current Rate or Percent	Previous Rate or Percent	National Rate or Percent
Number of licensed child care providers, July 2015	1,822	n/a	n/a	n/a
<i>Family Child Care Providers (as % of licensed providers)</i>	1,106	60.7%	n/a	n/a
<i>Child Care Centers (as % of licensed providers)</i>	716	39.3%	n/a	n/a
Number of child care providers in QRS (as % of licensed providers)	902	49.5%	n/a	n/a
<i>Family Child Care Providers in Quality Rating System (QRS) (as % of family providers)</i>	454	41.0%	n/a	n/a
<i>Child Care Centers in Quality Rating System (QRS) (as % of centers)</i>	448	62.6%	n/a	n/a
Children enrolled in Head Start programs, FFY2015 (as % of eligible children)	3,877	28.9%	27.5%	n/a
Children estimated to be eligible for Head Start but not enrolled (as % of eligible children)	9,552	71.1%	72.5%	n/a
Children enrolled in Maine Public Four Year Old Programs, 2014-2015 (as % of children age 4)	5,057	36.0%	35.6%	n/a

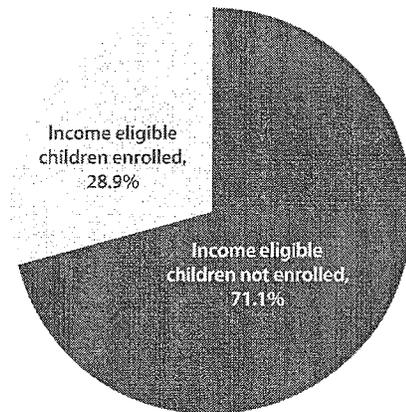
Early Childhood

The early years are a critical time for a child's future development. Like constructing a new house or office building, the foundation will determine the learning, behavior and development that will follow. Positive early experiences are the building blocks for the essential skills children need when learning to read beginning in kindergarten and through the completion of third grade. Families make use of a variety of early care and education settings: licensed child care, family, friends and neighbors, and public programs such as Head Start or public preschool. The quality of these out of home experiences can strongly influence a child's developmental progression.

IN MAINE:

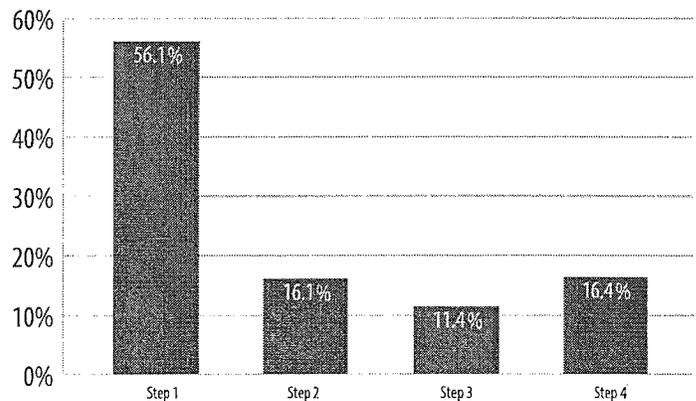
There are 1,822 licensed child care centers and family child care homes in Maine. Of the 902 providers enrolled in Maine's early care and education quality rating system, Quality for ME, 148 (16.4%) meet the highest standard (Step 4). Maine currently has the capacity to serve an estimated 27.5 percent of children age 0-5 who are income-eligible for Head Start. Statewide, over one-third of Maine's four-year-olds are enrolled in a public preschool program.

HEAD START PARTICIPATION 2014



Source: U.S. Office of Head Start, 2014 Program Information Report (PIR)

CHILD CARE PROVIDERS ENROLLED IN QUALITY RATING AND IMPROVEMENT SYSTEM (QRS) BY STEP • JULY 2015



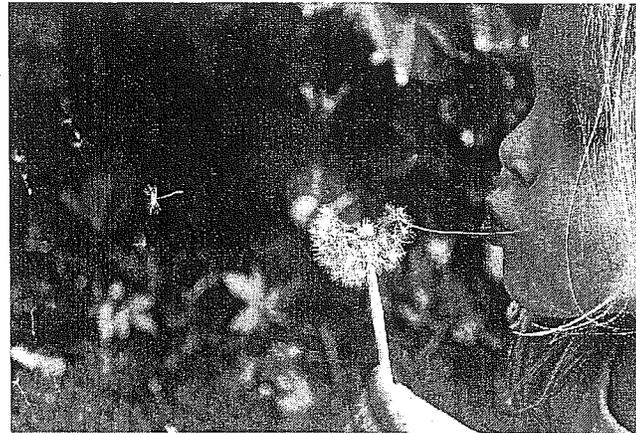
Source: Quality Rating and Improvement System --- Monthly Enrollment Report http://www.qualityforme.org/QRS_Enrollment/State.aspx

Department of Health and Human Services

Maine's Child Care Subsidy Program

What is the Child Care Subsidy Program?

The Child Care Subsidy Program helps eligible families to pay for child care so they can work, go to school or participate in a job training program.



Who is eligible to receive Child Care Subsidy?

Eligible families must meet the income guidelines

And

At least one of the following activities:

- work
- school
- job training program

Who can I choose as my child care provider?

- Licensed or certified child care centers
- Licensed or certified family child care homes
- Adults who provide care in their own homes
- Adults who come to your home to provide care
- Relatives over the age of 18

How do I apply?

- 1
 - Apply for Child Care Subsidy in one of the following ways:
 - At local DHHS office (Office of Family Independence-OFI)
 - Online at www.maine.gov/MyMaineConnection
 - Once you are determined to be **financially eligible**, proceed to step 2
- 2
 - Complete the Child Care Subsidy Program Application (you can get this from OFI or OCFS) and return it to the Office of Child and Family Services (OCFS):
 - Fax: 207-287-6308
 - Email: CCSP.DHHS@maine.gov
 - Mail: 2 Anthony Avenue SHS#11 Augusta, ME 04333-0011
 - Once you are determined to be **program eligible**, and the provider you choose is approved, payments will be made directly to your provider on your behalf.

How much will the Child Care Subsidy Program pay to my child care provider?

You pay your co-payment to your provider and the Child Care Subsidy Program will pay the rest to your provider, up to the Market Rate, for your area.

View the new Market Rates effective June 4, 2016

How do I find a child care provider?

For help with locating child care visit:

Child Care Choices or call 1-877-680-5866

What are the rules of the Child Care Subsidy Program?

Child Care Subsidy Program Rules

How is the Child Care Subsidy Program funded?

The Child Care Development Fund (CCDF) is a federal block grant that provides funding for states aimed at improving access to quality child care for high-need children and families.

Who do I contact with questions?

Contact us:

- By phone at 1-877-680-5866 or 207-624-7999
- By email CCSP.DHHS@maine.gov
- By fax 207-287-6308

Credits

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Income Guidelines (85% State Median income)

Effective July 1, 2015 until further notice

FAMILY SIZE	ANNUAL INCOME	MONTHLY INCOME (ANNUAL/12)	WEEKLY INCOME (ANNUAL/52)
1	\$33,793.11	\$2,816.09	\$649.87
2	\$44,190.99	\$3,682.58	\$849.83
3	\$54,588.87	\$4,549.07	\$1,049.79
4	\$64,986.75	\$5,415.56	\$1,249.75
5	\$75,384.63	\$6,282.05	\$1,449.70
6	\$85,782.51	\$7,148.54	\$1,649.66
7	\$87,732.11	\$7,311.01	\$1,687.16
8	\$89,681.72	\$7,473.48	\$1,724.65
9	\$91,631.32	\$7,635.94	\$1,762.14
10	\$93,580.92	\$7,798.41	\$1,799.63

EXCERPTS

- c. A Legal, Unregulated Child Care Provider
- d. An In-home Child Care Provider
- e. A Recreational Program
- f. A New Hampshire Regulated Child Care Provider licensed by New Hampshire
- g. A Relative Child Care Provider.

2.02.3 Subsidy is approved for enrollment hours as specified in Section 9, Enrollment, and cannot exceed fifty (50) hours per week without prior approval of the Department.

2.03 The subsidy payment is set by the Department based on a biennial Market Rate Survey required by federal law (45 CFR 98.42). The Sliding Fee Scale is determined by the Department adjusted for family size and income. Together the Parent fee and the Subsidy payment may not exceed the Child Care Provider's rate for their other clients for comparable care and may not exceed the Market Rate. Together they constitute payment to the provider for Child Care Services. See Standard 7.07, Special Child Care Provider Fees.

2.04 Subsidy is only paid and payments are only made once eligibility is determined for both the Parent and the Child Care Provider.

Section 3.00 CHILD ELIGIBILITY AND CLIENT GROUPS SERVED

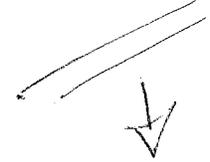
3.01 Eligibility for Services

3.01.1 A child is eligible for Child Care Subsidy services if: (a) the child's gross family income does not exceed an income level set by the Department of Health and Human Services and (b) the child's Parents are Employed, and/or Attending Job Training or Educational Program. The child will receive Child Care Subsidy services to the extent that funding is available.

- 5.15.3.3 When any adverse action is called for and is based on federal record matches, the Parent shall be sent a written notice at least thirty (30) calendar days prior to adverse action.

Section 6.00 THE PARENT FEE

"co-payment"



6.01 Fee Assessment to Parents

- 6.01.1 The Department will establish and periodically revise a Sliding Fee Scale that provides for cost sharing by families that receive Child Care Development Fund (CCDF) Child Care Subsidy. The Department will use this fee scale to determine the Parent's contribution to the cost of their child care.

- 6.01.2 All fee-paying Parents will be notified by the Department of the amount of the assessed Parent fee and payment terms.

- 6.01.3 All assessed Parent fees will be paid directly to the Child Care Provider by the Parent. The Child Care Provider must: (a) retain copies of all fee computation forms in Parent files, (b) issue a receipt upon payment of an assessed fee and retain copies of all receipts in agency files, and (c) keep fiscal records on all fee transactions.

- 6.01.4 The Parent or another party acting on behalf of the Parent must pay the assessed Parent fee directly to the Child Care Provider by the pre-determined due dates.

- 6.01.5 Under no circumstances will the Department use state or federal funds to pay the Parent fee.

- 6.01.6 The unauthorized assessment of fees by a Child Care Provider may constitute a breach of the Provider Agreement, enabling the Department to terminate the Provider Agreement.

- 6.01.7 All fee-paying Parents will pay the Child Care Provider the assessed fee for the full period that their child is enrolled.

6.02 Determining the Parent Fee

- 6.02.1 The Parent fee will be based on Gross Family Income as calculated in accordance with Section 5.

- 6.02.2 All eligible Parents will be assessed a sliding fee based on Family size and Gross Family Income. The Parent fee does not vary with

the number of children in care, the amount of care they need, or the type of care they choose to use.

- 6.02.3** The Department will use the Federal Poverty Guidelines provided by the U.S. Department of Health and Human Services (USDHHS), Office of the Secretary, to establish incremental ranges of income within the maximum allowed by CCDF rules.
- 6.02.4** The Department will update the fee scale annually in accordance with changes in the Federal Poverty Guidelines and develop an Action Transmittal. (see <http://aspe.hhs.gov/poverty/>)
- 6.02.5** A graduated fee percentage of Gross Family Income will be applied to each of the income ranges as follows:

Poverty Guideline Range	Fee Percentage of Gross Family Income
Up to 25%	2%
26% - 50%	4%
51% - 75%	5%
76% - 100%	6%
101% - 125%	8%
126% - 150%	9%
151% - 200%	10%
201% to Maximum Allowed	10%

- 6.02.6** The total amount of Parent fees assessed to a Family cannot exceed ten percent (10%) of the Family's gross income for all of their children enrolled in the subsidy program.
- 6.02.7** All Parent fees will be rounded down to the nearest dollar.
- 6.02.8** The fee shall be allocated to the youngest child first or in a manner that will avoid the need to allocate a portion of the fee across multiple children. If the fee exceeds the approved cost for a child, the remaining amount shall be allocated to the next oldest child until the full Parent share has been allocated.
- 6.02.9** The Family shall be ineligible to receive subsidy if the monthly fee exceeds the approved subsidy for all of the eligible children.
- 6.02.10** The Parent fee shall be determined at the time of application, and when the annual redetermination is conducted. The fee shall

remain the same until the next annual redetermination, unless an ongoing decrease in income occurs that is expected to last for at least two (2) or more months. The fee shall not be increased between redeterminations if the Family's income increases, except to correct an error in the prior calculation. Families shall be subject to the gross income limit for eligibility and shall report increases in income exceeding one hundred (\$100) dollars per month even if the change does not immediately affect the Parent fee. The Department can terminate if documentation is not supplied within the time frame required.

6.02.11 Decreases in the Parent fee shall be implemented in the month following the month in which the change is reported and verified.

6.03 Parent Fee Waivers

6.03.1 Neither the Department nor the Child Care Provider has the authority to categorically waive the Parent fee.

Section 7.00 CHILD CARE PROVIDER AGREEMENT

7.01 Child Care Providers who are eligible to receive payments

Child Care Providers who are eligible to receive payments on behalf of Parents receiving Subsidy are listed in Section 2.02.3. (See 1.00 Definitions for more details).

7.01.1 Child Care Providers are responsible for notifying the Department immediately if they learn of potential changes in a parent's eligibility.

7.02 Child Care Providers who are not eligible to receive payments

7.02.1 Child Care Providers who previously had agreements with the Department and who meet any of the following conditions are not eligible to receive payments on behalf of Parents receiving Subsidy:

- a. Owe money to the Department; including overpayments in other programs
- b. Were found to be engaged in fraud or a program violation in connection with the Child Care Subsidy program or have been sanctioned according to the rules in Section 12
- c. Had a Provider Agreement terminated based on Section 11.02. Note: This standard does not apply to terminations that are overturned through the appeal process.

ARIZONA

→ fingerprint clearance cards

Excerpt from Arizona 2016 CCDF State plan:

5.3.2 Describe the process and procedures for conducting background checks in a timely manner, including which agency/entity is responsible and how the Lead Agency ensures that background checks performed by a 3rd party meet the requirements, protecting the privacy of child care staff members, and providing opportunities for applicants to appeal the results of background checks.

Describe:

Arizona Department of Economic Security, CCDF Lead Agency

Criminal Background Checks

In Arizona, criminal background checks are conducted through the issuance of fingerprint clearance cards. This activity is conducted by the Arizona Department of Public Safety. Arizona Revised Statutes § 41-1758.07 describes the violations that would make a provider ineligible to receive a finger print clearance card, as well as the process for appeal. This includes a person who is subject to registration as a sex offender in Arizona or any other jurisdiction. In addition, individuals that have substantiated allegations with Arizona Department of Child Safety of physical abuse, sexual abuse, or neglect categorized as moderate or high risk, or resulting in the death of a child due to abuse of neglect are prohibited from providing care for CCDF funded children. The fee for volunteers for a

conducted.

The provider, adult staff members and adult residents at the child care group home must obtain and maintain valid fingerprint clearance cards. See A.R.S. § 36-897 et seq.

Certified Family Child Care Homes

Fingerprint clearance cards (which include an FBI criminal background check, and a state criminal background check) are issued upon entrance into the system and are valid for six years. However, the Lead Agency conducts criminal background checks every five years at the CCDF Lead Agency provider Registration Agreement renewal, as required by the CCDBG Act of 2014. Additionally, cardholders are continually crosschecked against all arrests in Arizona. A fingerprint clearance card is suspended for an arrest for a prohibited offense. If renewal of a Registration Agreement is sought, a new FBI background check is conducted.

The family child care home provider, adult non-provider residents and back up provider are subject to state criminal background checks. In addition, noncertified relative child care providers are also subject to these checks. See A.R.S. § 46-801.

Child Abuse Registry Checks

In Arizona, individuals that provide care for children must complete a child abuse registry check conducted by the Arizona Department of Child Safety. As part of the substantiation process of an allegation of child abuse with the Arizona Department of Child Safety, families are afforded an appeal before an Administrative Law Judge. During this appeal they are able to dispute the findings and conclusions of a Department of Child Safety investigation and provide additional evidence. The child abuse registry check only identifies substantiated allegations that have been appealed and the decision upheld by an Administrative Law Judge, or substantiated allegations that an individual has failed to appeal.

There are no costs to child care staff for the checks. Staff that have substantiated allegations of physical abuse, sexual abuse, or neglect categorized as moderate or high risk, or resulting in the death of a child due to abuse of neglect are prohibited from providing care for CCDF funded children.

The CCDF Lead Agency's decisions based on a provider's failure to clear a fingerprint check or child abuse registry check are not appealable.

Arizona Department of Health Services

The Arizona Department of Health Services processes Central Registry checks for providers

that do not have CCDF funding (are not contracted with the CCDF Lead Agency).

The Arizona Department of Child Safety Central Registry Process for Non-CCDF Lead Agency contractors is accessible via the link below:

<http://azdhs.gov/licensing/childcare-facilities/index.php#providers-non-contractor-registry>

The Arizona Department of Health Services has developed a process to mirror the process the CCDF Lead Agency has in place for conducting Central Registry background checks in a timely manner. Protocols are as follows:

Providers are informed via training, prior to licensure that they need to complete the required form to include all of their staff. The ' *Search Request of ADCS CENTRAL REGISTRY for Background Check*' form can be viewed at: <http://azdhs.gov/documents/licensing/childcare-facilities/providers/registry/cps-central-registry-background-check.pdf>

In addition, providers are requested to have all child care personnel complete the ' *ADCS Central Registry Affidavit*' for each employee and maintain it in their file for review and verification, per A.R.S. § 36-883.02(C); the affidavit can be viewed at:

<http://azdhs.gov/documents/licensing/childcare-facilities/providers/registry/cps-central-registry-employee-affidavit.pdf>

Providers are informed that the Department of Child Safety is in receipt of their request and receive a formal letter from the Department informing them of the outcome of the review.

The Central Registry Specialist is trained to utilize the Central Registry program and has passed all required security protocols determined by the CCDF Lead Agency. The State of Arizona has put in place via statute (A.R.S. § 8-804(I)) that individuals who have a hit on the central registry check have opportunities to appeal the decision with the Arizona Department of Public Safety.

Regarding criminal background checks: pursuant to 36-897.03 (Homes) and 36-883.02 (Commercial sites - centers/public schools) requires providers to submit fingerprint clearance checks for themselves and their staff every six years upon renewal. The Arizona Department of Public Safety has the jurisdiction in issuing cards to staff and providers. The Arizona Department of Health Services is required to check fingerprint clearance for employees/providers working in all licensed and certified facilities. All CCDF providers will have their fingerprint clearance cards verified every year at the annual compliance inspection as will all non-CCDF providers.

5.3.3 Describe how the State/Territory is assisting other States process background checks, including which agency/entity is responsible for working with other states

Fingerprint Clearance Card is \$65 and the fee for all others is \$67. There is no fee associated with child abuse registry checks.

The Arizona Board of Fingerprinting has authority to determine good cause exceptions as described in Arizona Revised Statutes § 41-619.55 for providers who wish to appeal the denial of a fingerprint clearance card. The CCDF Lead Agency's decisions based on a provider's failure to clear a fingerprint check or child abuse registry check are not appealable.

A web-link to Arizona Revised Statutes 41-1758.07 is at:

<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/41/01758-07.htm&Title=41&DocType=ARS>

Arizona Revised Statutes 41-1756 prohibits unauthorized access to, release of, or usage of criminal history information for any other purpose than intended by statute.

Licensed Centers

Fingerprint clearance cards (which include an FBI criminal background check, and a State criminal background check) are issued upon entrance into the system and are valid for six years. However, the CCDF Lead Agency conducts criminal background checks every five years at CCDF Lead Agency provider Registration Agreement renewal, as required by the CCDBG Act of 2014. Additionally, cardholders are continually crosschecked against all arrests in Arizona. A fingerprint clearance card is suspended for an arrest for a prohibited offense. If a Registration Agreement renewal is sought, a new FBI background check is conducted.

The director, teaching staff, nonteaching staff and volunteers must obtain and maintain valid fingerprint clearance cards issued under Arizona Revised Statutes (A.R.S.) Title 41, Chapter 12, Article 3.1. The director, teaching staff, non-teaching staff and volunteers are defined as "child care personnel" in (A.R.S.) § 36-883.02.

Licensed Group Homes

Fingerprint clearance cards (which include an FBI criminal background check, and a State criminal background check) are issued upon entrance into the system and are valid for six years. However, the CCDF Lead Agency conducts criminal background checks every five years at the CCDF Lead Agency provider Registration Agreement renewal, as required by the CCDBG Act of 2014. Additionally, cardholders are continually crosschecked against all arrests in Arizona. A fingerprint clearance card is suspended for an arrest for a prohibited offense. If renewal of a Registration Agreement is sought, a new FBI background check is

Arizona Revised Statutes Annotated

Title 36. Public Health and Safety (Refs & Annos)

Chapter 7.1. Child Care Programs (Refs & Annos)

Article 1. Day Care Centers (Refs & Annos)

A.R.S. § 36-883.02

§ 36-883.02. Child care personnel; fingerprints; exemptions; definition

Effective: June 29, 2009

- A. Except as provided in subsection B of this section, child care personnel, including volunteers, shall submit the form prescribed in subsection C of this section to the employer and shall have valid fingerprint clearance cards issued pursuant to § 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment or beginning volunteer work.
- B. Exempt from the fingerprinting requirements of subsection A of this section are parents, including foster parents and guardians, who are not employees of the child care facility and who participate in activities with their children under the supervision of and in the presence of child care personnel.
- C. Applicants, licensees and child care personnel shall attest on forms that are provided by the department that:
1. They are not awaiting trial on or have never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the offenses listed in § 41-1758.07, subsection B in this state or similar offenses in another state or jurisdiction.
 2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in § 8-201.
 3. They have not been denied or had revoked a certificate to operate a child care group home or a license to operate a child care facility in this or any other state or that they have not been denied or had revoked a certification to work in a child care facility or child care group home.
- D. Employers of child care personnel shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations that may be relevant to an individual's fitness for employment in a child care facility.
- E. The forms required by subsection C of this section are confidential.
- F. A child care facility shall not allow a person to be employed or volunteer in the facility in any capacity if the person has been denied a fingerprint clearance card pursuant to § 41-1758.07 or has not received an interim approval from the board of fingerprinting pursuant to § 41-619.55, subsection I.
- G. The employer shall notify the department of public safety if the employer receives credible evidence that any child care personnel either:
1. Is arrested for or charged with an offense listed in § 41-1758.07, subsection B.
 2. Falsified information on the form required by subsection C of this section.
- H. For the purposes of this section, "child care personnel" means any employee or volunteer working at a child care facility.

Arizona Revised Statutes Annotated

Title 41. State Government (Refs & Annos)

Chapter 12. Public Safety (Refs & Annos)

Article 3.1. Fingerprinting Division (Refs & Annos)

§ 41-1758.01. Fingerprinting division; powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to §§ 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3413, 32-1232, 32-1284, 32-1297.01, 32-1904, 32-2108.01, 32-2123, 32-2371, 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, § 46-141, subsection A and § 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to § 41-619.53 and deposit, pursuant to §§ 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to § 41-1758.03; 41-1758.04 or 41-1758.07.

5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to § 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to § 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to § 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to § 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

§ 41-1758.02. Fingerprint checks; registration

- A. The person, provider or agency shall submit a full set of fingerprints to the division for the purpose of obtaining a state and federal criminal history records check pursuant to § 41-1750 and Public Law 92-544. If the person can present a valid fingerprint clearance card or credible documentation that the person's application for a fingerprint clearance card is pending, the person, provider or agency is not required to submit another application for a fingerprint clearance card. The division may exchange this fingerprint data with the federal bureau of investigation.
- B. Except as provided in § 15-106, paragraph 9, the person shall submit a new set of fingerprints to the division for a fingerprint background check every six years. The division shall conduct a new state and federal criminal history records check on application for a new card.
- C. In order to apply for a fingerprint clearance card, a person shall submit a completed application for a fingerprint clearance card provided by the division.
- D. The person, provider or agency shall submit the application required by subsection C of this section along with the fingerprints and applicable fee to the division for a criminal history records check.

§ 41-1758.04. Denial, suspension or revocation of fingerprint clearance card; driving restricted notation

- A. The division shall deny the issuance of a fingerprint clearance card to any person who is awaiting trial on or who has been convicted of an offense listed in § 41-1758.03, subsection B or C or § 41-1758.07, subsection B or C. The division shall deny the issuance of a fingerprint clearance card if required pursuant to § 41-1758.03, subsection L or § 41-1758.07, subsection L.
- B. The division shall revoke the fingerprint clearance card of a person who has received a fingerprint clearance card and who is subsequently convicted of an offense listed in § 41-1758.03, subsection B or § 41-1758.07, subsection B.
- C. The division shall suspend the fingerprint clearance card of a person who becomes subject to registration as a sex offender or a person who is arrested for an offense listed in § 41-1758.03, subsection B or C or § 41-1758.07, subsection B or C.
- D. A person who has been arrested for an offense listed in § 41-1758.03, subsection C or § 41-1758.07, subsection C and whose fingerprint clearance card has been suspended pursuant to this section may request a good cause exception hearing pursuant to § 41-619.55.
- E. The division shall place a driving restriction notation on the fingerprint clearance card of a person who is subsequently arrested for an offense listed in § 41-1758.03, subsection D or § 41-1758.07, subsection D.
- F. The division shall notify the agency and person in writing if the division suspends, revokes or places a driving restriction notation on a person's fingerprint clearance card pursuant to this section. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction was based. This criminal history information is subject to dissemination restrictions pursuant to § 41-1750 and Public Law 92-544.

§ 41-1758.05. Violation; classification

A person who knowingly falsifies a material fact or who makes or uses a false fingerprint clearance card knowing the false fingerprint clearance card contains a false, fictitious or fraudulent statement is guilty of a class 3 misdemeanor.

§ 41-1758.07. Level I fingerprint clearance cards; definitions

A. On receiving the state and federal criminal history record of a person who is required to be fingerprinted pursuant to this section, the fingerprinting division in the department of public safety shall compare the record with the list of criminal offenses that preclude the person from receiving a level I fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the fingerprinting division shall issue the person a level I fingerprint clearance card.

B. A person who is subject to registration as a sex offender in this state or any other jurisdiction or who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a level I fingerprint clearance card:

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. Homicide, including first or second degree murder, manslaughter and negligent homicide.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child prostitution as prescribed in § 13-3212.
10. Child abuse.
11. Felony child neglect.
12. Abuse of a vulnerable adult.
13. Sexual conduct with a minor.
14. Molestation of a child.
15. Molestation of a vulnerable adult.
16. Dangerous crimes against children as defined in § 13-705.
17. Exploitation of minors involving drug offenses.
18. Taking a child for the purpose of prostitution as prescribed in § 13-3206.
19. Neglect or abuse of a vulnerable adult.
20. Sex trafficking.
21. Sexual abuse.
22. Production, publication, sale, possession and presentation of obscene items as prescribed in § 13-3502.
23. Furnishing harmful items to minors as prescribed in § 13-3506.
24. Furnishing harmful items to minors by internet activity as prescribed in § 13-3506.01.
25. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in § 13-3512.
26. Luring a minor for sexual exploitation.
27. Enticement of persons for purposes of prostitution.
28. Procurement by false pretenses of person for purposes of prostitution.
29. Procuring or placing persons in a house of prostitution.
30. Receiving earnings of a prostitute.
31. Causing one's spouse to become a prostitute.
32. Detention of persons in a house of prostitution for debt.
33. Keeping or residing in a house of prostitution or employment in prostitution.

34. Pandering.
35. Transporting persons for the purpose of prostitution, polygamy and concubinage.
36. Portraying adult as a minor as prescribed in § 13-3555.
37. Admitting minors to public displays of sexual conduct as prescribed in § 13-3558.
38. Any felony offense involving contributing to the delinquency of a minor.
39. Unlawful sale or purchase of children.
40. Child bigamy.
41. Any felony offense involving domestic violence as defined in § 13-3601 except for a felony offense only involving criminal damage in an amount of more than two hundred fifty dollars but less than one thousand dollars if the offense was committed before June 29, 2009.
42. Any felony offense in violation of title 13, chapter 12¹ if committed within five years before the date of applying for a level I fingerprint clearance card.
43. Felony drug or alcohol related offenses if committed within five years before the date of applying for a level I fingerprint clearance card.
44. Felony indecent exposure.
45. Felony public sexual indecency.
46. Terrorism.
47. Any offense involving a violent crime as defined in § 13-901.03.
48. Trafficking of persons for forced labor or services.

C. A person who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a level I fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to § 41-619.55:

1. Any misdemeanor offense in violation of title 13, chapter 12.
2. Misdemeanor indecent exposure.
3. Misdemeanor public sexual indecency.
4. Aggravated criminal damage.
5. Theft.
6. Theft by extortion.
7. Shoplifting.
8. Forgery.
9. Criminal possession of a forgery device.
10. Obtaining a signature by deception.
11. Criminal impersonation.
12. Theft of a credit card or obtaining a credit card by fraudulent means.
13. Receipt of anything of value obtained by fraudulent use of a credit card.
14. Forgery of a credit card.
15. Fraudulent use of a credit card.
16. Possession of any machinery, plate or other contrivance or incomplete credit card.
17. False statement as to financial condition or identity to obtain a credit card.
18. Fraud by persons authorized to provide goods or services.
19. Credit card transaction record theft.
20. Misconduct involving weapons.
21. Misconduct involving explosives.
22. Depositing explosives.

23. Misconduct involving simulated explosive devices.
24. Concealed weapon violation.
25. Misdemeanor possession and misdemeanor sale of peyote.
26. Felony possession and felony sale of peyote if committed more than five years before the date of applying for a level I fingerprint clearance card.
27. Misdemeanor possession and misdemeanor sale of a vapor-releasing substance containing a toxic substance.
28. Felony possession and felony sale of a vapor-releasing substance containing a toxic substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
29. Misdemeanor sale of precursor chemicals.
30. Felony sale of precursor chemicals if committed more than five years before the date of applying for a level I fingerprint clearance card.
31. Misdemeanor possession, misdemeanor use or misdemeanor sale of marijuana, dangerous drugs or narcotic drugs.
32. Felony possession, felony use or felony sale of marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.
33. Misdemeanor manufacture or misdemeanor distribution of an imitation controlled substance.
34. Felony manufacture or felony distribution of an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
35. Misdemeanor manufacture or misdemeanor distribution of an imitation prescription-only drug.
36. Felony manufacture or felony distribution of an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
37. Misdemeanor manufacture or misdemeanor distribution of an imitation over-the-counter drug.
38. Felony manufacture or felony distribution of an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
39. Misdemeanor possession or misdemeanor possession with intent to use an imitation controlled substance.
40. Felony possession or felony possession with intent to use an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
41. Misdemeanor possession or misdemeanor possession with intent to use an imitation prescription-only drug.
42. Felony possession or felony possession with intent to use an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
43. Misdemeanor possession or misdemeanor possession with intent to use an imitation over-the-counter drug.
44. Felony possession or felony possession with intent to use an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
45. Misdemeanor manufacture of certain substances and drugs by certain means.
46. Felony manufacture of certain substances and drugs by certain means if committed more than five years before the date of applying for a level I fingerprint clearance card.
47. Adding poison or other harmful substance to food, drink or medicine.
48. A criminal offense involving criminal trespass under title 13, chapter 15.²
49. A criminal offense involving burglary under title 13, chapter 15.
50. A criminal offense under title 13, chapter 23,³ except terrorism.
51. Misdemeanor offenses involving child neglect.
52. Misdemeanor offenses involving contributing to the delinquency of a minor.
53. Misdemeanor offenses involving domestic violence as defined in § 13-3601.
54. Felony offenses involving domestic violence if the offense only involved criminal damage in an amount of more than two hundred fifty dollars but less than one thousand dollars and the offense was committed before June 29, 2009.
55. Arson.

56. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.
57. Criminal damage.
58. Misappropriation of charter school monies as prescribed in § 13-1818.
59. Taking identity of another person or entity.
60. Aggravated taking identity of another person or entity.
61. Trafficking in the identity of another person or entity.
62. Cruelty to animals.
63. Prostitution, as prescribed in § 13-3214.
64. Sale or distribution of material harmful to minors through vending machines as prescribed in § 13-3513.
65. Welfare fraud.
66. Any felony offense in violation of title 13, chapter 12 if committed more than five years before the date of applying for a level I fingerprint clearance card.
67. Kidnapping.
68. Robbery, aggravated robbery or armed robbery.

D. A person who is awaiting trial on or who has been convicted of committing or attempting to commit a misdemeanor violation of § 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense in another state or jurisdiction within five years from the date of applying for a level I fingerprint clearance card is precluded from driving any vehicle to transport employees or clients of the employing agency as part of the person's employment. The division shall place a notation on the level I fingerprint clearance card that indicates this driving restriction. This subsection does not preclude a person from driving a vehicle alone as part of the person's employment.

E. Notwithstanding subsection C of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to § 41-619.55, the fingerprinting division shall issue a level I fingerprint clearance card to the applicant.

F. If the fingerprinting division denies a person's application for a level I fingerprint clearance card pursuant to subsection C of this section and a good cause exception is requested pursuant to § 41-619.55, the fingerprinting division shall release, on request by the board of fingerprinting, the person's criminal history record to the board of fingerprinting.

G. A person shall be granted a level I fingerprint clearance card pursuant to this section if either of the following applies:

1. An agency granted a good cause exception before August 16, 1999 and no new precluding offense is identified. The fingerprint clearance card shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the fingerprinting division in writing of the date on which the prior good cause exception was granted, the date of the conviction and the name of the offense for which the good cause exception was granted.
2. The board granted a good cause exception and no new precluding offense is identified.

H. The licensee or contract provider shall assume the costs of fingerprint checks conducted pursuant to this section and may charge these costs to persons who are required to be fingerprinted.

I. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the level I fingerprint clearance card requirements of this section. At all times the person shall be under the direct visual supervision of personnel who have valid level I fingerprint clearance cards.

J. The fingerprinting division shall conduct periodic state criminal history records checks and may conduct federal criminal history records checks when authorized pursuant to federal law for the purpose of updating the clearance status of current level I fingerprint clearance cardholders pursuant to this section and may notify the board of fingerprinting and the agency of the results of the records check.

K. The fingerprinting division shall revoke a person's level I fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to § 41-619.55.

L. If a person's criminal history record contains an offense listed in subsection B or C of this section and the final disposition is not recorded on the record, the division shall conduct research to obtain the disposition within thirty business days after receipt of the record. If the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the offenses listed in subsection B or C of this section in this state or the same or similar offense in another state or jurisdiction, the division shall not issue a level I fingerprint clearance card to the person. If the division is unable to make the determination required by this section and does not issue a level I fingerprint clearance card to a person, the person may request a good cause exception pursuant to § 41-619.55.

M. If after conducting a state and federal criminal history records check the fingerprinting division determines that it is not authorized to issue a level I fingerprint clearance card to an applicant, the division shall notify the agency that the fingerprinting division is not authorized to issue a level I fingerprint clearance card. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to § 41-1750 and Public Law 92-544.

N. The fingerprinting division is not liable for damages resulting from:

1. The issuance of a level I fingerprint clearance card to an applicant who is later found to have been ineligible to receive a level I fingerprint clearance card at the time the card was issued.
2. The denial of a level I fingerprint clearance card to an applicant who is later found to have been eligible to receive a level I fingerprint clearance card at the time issuance of the card was denied.

O. Notwithstanding any law to the contrary, an individual may apply for and receive a level I fingerprint clearance card pursuant to this section to satisfy a requirement that the person have a valid fingerprint clearance card issued pursuant to § 41-1758.03.

P. Notwithstanding any law to the contrary, except as prescribed pursuant to subsection Q of this section, an individual who receives a level I fingerprint clearance card pursuant to this section also satisfies a requirement that the individual have a valid fingerprint clearance card issued pursuant to § 41-1758.03.

Q. Unless a cardholder commits an offense listed in subsection B or C of this section after June 29, 2009, a fingerprint clearance card issued pursuant to § 41-1758.03 before June 29, 2009 and its renewals are valid for all requirements for a level I fingerprint clearance card except those relating to the requirements of § 8-105 or 8-509. A fingerprint clearance card issued before June 29, 2009 to meet the requirements of § 8-105 or 8-509 and its renewals are valid after June 29, 2009 to meet all requirements for a level I fingerprint clearance card, including the requirements of § 8-105 or 8-509, if the cardholder has been certified by the court to adopt or has been issued a foster home license before June 29, 2009.

R. The issuance of a level I fingerprint clearance card does not entitle a person to employment.

S. For the purposes of this section:

1. "Person" means a person who is fingerprinted pursuant to:

(a) Section 8-105, 8-463, 8-509, 8-802, 17-215, 36-207, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or 46-141.

(b) Subsection O of this section.

2. "Renewal" means the issuance of a fingerprint clearance card to an existing fingerprint clearance cardholder who applies before the person's existing fingerprint clearance card expires.

§ 41-1758.08. Fingerprint clearance card; use of expired card

A. Notwithstanding any other law, an expired fingerprint clearance card may be used to satisfy the fingerprint requirements of § 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330 or 15-1881 if the person signs an affidavit stating both of the following:

1. The person submitted a completed application to the division for a new fingerprint clearance card within ninety days before the expiration date on the person's current fingerprint clearance card.
2. The person is not awaiting trial on and has not been convicted of a criminal offense that would make the person ineligible for a fingerprint clearance card.

B. This section does not apply to a fingerprint clearance card that has been denied, suspended or revoked or to a person who has requested a good cause exception hearing.

<u>Arizona Revised Statutes Annotated</u>
<u>Title 41. State Government (Refs & Annos)</u>
<u>Chapter 3. Administrative Boards and Commissions</u>
<u>Article 12. Board of Fingerprinting (Refs & Annos)</u>

§ 41-619.52. Board of fingerprinting; organization; meetings

A. The board of fingerprinting is established consisting of the following members:

1. A representative of the supreme court who is appointed by the chief justice of the supreme court.
2. A representative of the department of economic security who is appointed by the director of the department of economic security.
3. A representative of the department of education who is appointed by the superintendent of public instruction.
4. A representative of the department of health services who is appointed by the director of the department of health services.
5. A representative of the department of juvenile corrections who is appointed by the director of the department of juvenile corrections.
6. A representative of the department of child safety who is appointed by the director of the department of child safety.

B. At its initial meeting and annually thereafter, the board shall elect a chairperson and vice-chairperson from among its members and any other officers that are deemed necessary or advisable.

C. The board shall meet at least once each calendar quarter and additionally as the chairperson deems necessary. A majority of the members constitutes a quorum for the transaction of business.

D. Board members:

1. Serve at the pleasure of the appointing authority.
2. Are not eligible for compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.¹

3. Shall have a valid fingerprint clearance card issued pursuant to § 41-1758.07.

E. The chief justice, the superintendent of public instruction or a department director may designate an alternate member to represent a member who is appointed pursuant to subsection A by the chief justice, the superintendent of public instruction or a department director, respectively.

§ 41-619.53. Board of fingerprinting; powers and duties; personnel; liability

A. The board of fingerprinting shall:

1. Determine good cause exceptions pursuant to § 41-619.55 and central registry exceptions pursuant to § 41-619.57. The board may appoint a hearing officer to recommend that an applicant be granted or denied a good cause exception or central registry exception after the hearing officer conducts an expedited review, a good cause exception hearing or a central registry exception hearing.
2. Adopt rules to implement this article, including rules to establish good cause exceptions for the issuance of fingerprint clearance cards pursuant to §§ 41-1758.03 and 41-1758.07 and central registry exceptions pursuant to § 8-804. This rule making is exempt from the requirements of chapter 6 of this title.¹
3. Administer and enforce this article and rules adopted pursuant to this article.
4. Furnish a copy of its rules, on request, to all applicants who petition the board for a good cause exception pursuant to §§ 41-1758.03 and 41-1758.07 or a central registry exception pursuant to § 8-804 and, on request, to licensees, contract providers and state agencies.
5. Establish fees.

B. In order to grant a good cause exception or a central registry exception, a majority plus an additional member, of the members present, must vote to approve the application. If the board grants a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant. If the board grants a central registry exception, the board shall notify the department of child safety, the department of economic security or the department of health services, as appropriate, in writing.

C. Subject to chapter 4, article 4 of this title,² the board may employ clerical, professional and technical personnel subject to fee monies that are collected and to the budget that is approved by the board members and shall prescribe personnel duties and determine personnel compensation. Personnel employed by the board must have a valid fingerprint clearance card issued pursuant to § 41-1758.07. If the applicant is denied a fingerprint clearance card, in order to be employed by the board, the board must grant a good cause exception pursuant to this article by a unanimous vote.

D. In making any recommendation to the board to grant or deny a good cause exception or central registry exception, the hearing officer shall consider all of the reasons and criteria prescribed in § 41-619.55, subsection E or § 41-619.57, subsection E.

E. Members and employees of the board are not liable for acts done or actions taken by any board member or employee if the members or employees act in good faith following the requirements of this article.

§ 41-619.54. Confidentiality of criminal record and central registry information; exception; reporting

- A. All criminal history record information and central registry information that is maintained by the board is confidential, except that criminal history record information and central registry information may be disclosed pursuant to a determination for a good cause exception pursuant to § 41-619.55 or pursuant to a central registry exception pursuant to § 41-619.57.
- B. Persons who are present at a good cause exception hearing or a central registry exception hearing shall not discuss or share any criminal history record information or central registry information outside of the good cause exception hearing.
- C. Except as provided in subsection D of this section, criminal history record information, central registry information, good cause exception determinations and hearings and central registry exception determinations and hearings are exempt from title 39, chapter 1.1
- D. On or before December 1 of each year the board shall report the number of applications for a good cause exception and for a central registry exception and the number of good cause exceptions and central registry exceptions that were granted for the twelve month period ending September 30. The report shall itemize the number of applications and the number of applications granted for each of the sections listed in § 41-619.51, paragraph 5. For each of these sections, the report shall further itemize each offense listed in § 41-1758.03, subsections B and C and § 41-1758.07, subsections B and C for which a good cause exception was applied for and for which a good cause exception was granted. The board shall provide a copy of the report to the governor, the speaker of the house of representatives and the president of the senate.

§ 41-619.55. Good cause exceptions; expedited review; hearing; revocation

- A. The board shall determine good cause exceptions. The board shall determine a good cause exception after an expedited review or after a good cause exception hearing. The board shall conduct an expedited review within twenty days after receiving an application for a good cause exception.
- B. Within forty-five days after conducting an expedited review, the board shall hold a good cause exception hearing if the board determines that the applicant does not qualify for a good cause exception under an expedited review but is qualified to apply for a good cause exception and the applicant submits an application for a good cause exception within the time limits prescribed by rule.
- C. When determining whether a person is eligible to receive a good cause exception under an expedited review, the board shall consider whether the person has shown to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in § 41-1758.03, subsection B or § 41-1758.07, subsection B or that the person is successfully rehabilitated and is not a recidivist. Before granting a good cause exception under an expedited review, the board shall consider all of the criteria listed in subsection E of this section.
- D. The following persons shall be present during good cause exception hearings:
1. The board or its hearing officer.
 2. The person who requested the good cause exception hearing. The person may be accompanied by a representative at the hearing.
- E. The board may grant a good cause exception at a hearing if the person shows to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in § 41-1758.03, subsection B or § 41-1758.07, subsection B or that the person is successfully rehabilitated and is not a recidivist. Notwithstanding any other law, the board may require applicants to disclose evidence regarding substantiated allegations of child or vulnerable adult abuse or neglect for consideration in determining an applicant's successful rehabilitation. If the applicant fails to appear at the hearing without good cause, the board may deny a good cause exception. The board shall grant or deny a good cause

§ 36-883.02. Child care personnel; fingerprints; exemptions; definition, AZ ST § 36-883.02

exception within eighty days after the good cause exception hearing. Before granting a good cause exception at a hearing the board shall consider all of the following in accordance with board rule:

1. The extent of the person's criminal record.
2. The length of time that has elapsed since the offense was committed.
3. The nature of the offense.
4. Any applicable mitigating circumstances.
5. The degree to which the person participated in the offense.
6. The extent of the person's rehabilitation, including:
 - (a) Completion of probation, parole or community supervision.
 - (b) Whether the person paid restitution or other compensation for the offense.
 - (c) Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.
 - (d) Personal references attesting to the person's rehabilitation.

F. If the board grants a good cause exception to a person, the board shall request in writing that the department of public safety issue a fingerprint clearance card to the person.

G. The board's staff, under the direction of the executive director of the board, shall review reports it receives of the arrest, charging or conviction of a person for offenses listed in §§ 41-1758.03 and 41-1758.07 who previously received a fingerprint clearance card. Except as provided by subsection J of this section, the executive director shall report any arrest, charge or conviction of a prohibited crime to the state agencies listed on the applicant's fingerprint clearance card application.

H. The board may request in writing that the department of public safety revoke a person's fingerprint clearance card pursuant to § 41-1758.04 if the person received a fingerprint clearance card and the person is subsequently convicted of an offense listed in § 41-1758.03, subsection B or C or § 41-1758.07, subsection B or C.

I. Pending the outcome of a good cause exception determination, the board or its hearing officer may issue interim approval in accordance with board rule to continue working to a good cause exception applicant.

J. If the board's staff, under the direction of the executive director, receives a report of an arrest, charging or conviction of a prohibited crime for a person who previously received a fingerprint clearance card pursuant to § 15-1881, the executive director shall not report this information to the state agency that is listed on the applicant's fingerprint clearance card application but shall notify the person issued the fingerprint clearance card of the report.

K. The board is exempt from chapter 6, article 10 of this title.1

L. A person who is required to obtain a fingerprint clearance card pursuant to § 41-619.52 is not eligible to receive a good cause exception pursuant to this section.

CHAPTER 158
SB 453-FN - FINAL VERSION

02/11/2016 0344s
05/05/2016 1900EBA

2016 SESSION

16-2748
05/04

SENATE BILL *453-FN*

AN ACT relative to comprehensive criminal background checks for individuals in registered and licensed child day care agencies, child care institutions, and child care agencies.

SPONSORS: Sen. Stiles, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Carson, Dist 14; Sen. Forrester, Dist 2; Rep. Balcom, Hills. 21; Rep. Cordelli, Carr. 4; Rep. Shaw, Hills. 16; Rep. Wall, Straf. 6; Rep. Gargas, Hills. 27

COMMITTEE: Education

ANALYSIS

This bill revises requirements for criminal background checks for individuals in registered and licensed child day care agencies, child care institutions, and child care agencies.

The bill is a request of the department of health and human services.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears ~~in brackets and struck through.~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

02/11/2016 0344s
05/05/2016 1900EBA 16-2748
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT relative to comprehensive criminal background checks for individuals in registered and licensed child day care agencies, child care institutions, and child care agencies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

158:1 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. Amend RSA 170-E:7, I to read as follows:

I. Child day care providers who are required to be licensed or registered according to the provisions of this chapter shall, ~~[no later than]~~ *prior to the date* an ~~[individual's first day of employment, which]~~ individual is responsible for the care of, or ~~[having]~~ *has* regular contact with children, and upon adding new household members or other individuals who will have regular contact with children, submit to the department, the names, birth names, birth dates, and addresses *during the preceding 5 years* of such

individuals and other information required by the department as prescribed by rules adopted by the commissioner under RSA 541-A.

I-a. The persons described in ~~[this]~~ paragraph *I* shall submit directly to the department of safety a notarized criminal history records release form, as provided by the New Hampshire division of state police, which authorizes the release of the person's criminal records, if any, to the department. The person shall ~~[submit with the release form a complete set of fingerprints taken by]~~ ***complete a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System through*** a qualified law enforcement agency or an authorized employee of the department of safety. The department of safety shall complete the criminal history records check and forward such record, if any, to the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

158:2 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. Amend RSA 170-E:7, II to read as follows:

II.(a) ~~[The department shall,]~~ For every name submitted on an application, in the registration process, and for each individual for whom information is required to be submitted pursuant to paragraph I, ~~[review the names, birth names, birth dates, and current and previous addresses of]~~ ***the department shall search for*** such persons against the ~~[state registry of founded abuse and neglect reports]~~ ***New Hampshire sex offender and abuse and neglect registries, the sex offender and abuse and neglect registries of each state where the individual resided in the past 5 years, and the National Sex Offender Registry.***

(b) The department of safety shall submit the ~~[criminal history records release form]~~ ***notarized criminal history record information authorization form*** to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(c) The costs of criminal history record checks shall be borne by the child day care provider; provided, that the child day care provider may require an applicant to pay the actual costs of the criminal history check of the employee.

158:3 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. RSA 170-E:7, II-a is repealed and reenacted to read as follows:

II-a. An individual shall not be required to submit a request under paragraph I-a if:

(a) In the previous 5 years, the individual submitted a state criminal records release form and fingerprints and completed a criminal records check under this section;

(b) The individual is currently employed by a child care provider within the state, or has been separated from employment from a child care provider within the state for a period of not more than 180 consecutive days; and

(c) The department made a determination that when the individual completed the criminal records check within the previous 5 years as described in this section, the individual was eligible for employment as provided in paragraphs III and IV.

158:4 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. Amend RSA 170-E:7, III to read as follows:

III. *The department shall make a determination regarding the individual's eligibility for employment no later than 45 days from submission of all required information as described in paragraphs I and I-a. If any individual whose name has been submitted for a check under this section is registered or required to be registered on a state sex offender registry or repository, or the National Sex Offender Registry, or has been convicted of a [violent or sexually-related crime against a child] felony consisting of murder, child abuse or neglect, a crime against a child including child pornography and trafficking, spousal abuse, a crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed during the previous 5 years, or any other violent or sexually-related misdemeanor against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child pornography, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall:*

(a) If the individual is the applicant or owner, revoke or deny the license or permit, or withhold state funds if the child day care provider is not required to be licensed.

(b) If the individual is a board member, household member, or child day care personnel, or any other individual having regular contact with the enrolled children, inform the child day care agency or registered provider that the individual [~~poses a threat to children~~] *is ineligible for employment* and give the agency or registered provider an opportunity to take immediate corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the individual will not be on the premises of the child day care program and shall have no contact with children enrolled in the child day care program.

(c) Suspend, deny, or revoke the license or permit, *and withhold state funding*, if the child day care program refuses to take corrective action as indicated in subparagraph (b), or subsequently fails to comply with the corrective action plan approved by the department.

(d) Upon a finding of criminal activity as described in this paragraph, withhold state funding to registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or fails to comply with the corrective action plan approved by the department.

158:5 New Paragraphs; Child Day Care Licensing. Amend RSA 170-E:7 by inserting after paragraph IV the following new paragraphs:

IV-a. After the department has made a determination that an individual required to complete a criminal record check under paragraph I does not pose a present threat to the safety of children, the department may issue a child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in subparagraph II-a(b). The state may require additional background checks to be completed based upon conviction information submitted.

IV-b. Child day care providers who are required to be licensed or registered according to the provisions of this chapter shall, for every individual submitted for a check under paragraph I who is not required to complete the criminal background check pursuant to paragraph II-a, have on file a signed statement from the individual stating since the day the individual's background check was completed, that he or she:

(a) Has not been convicted of any crimes; and

(b) Has not had a finding by the department or any administrative agency in this or any other state for abuse, neglect, or exploitation.

neglect registries, the sex offender and abuse and neglect registries of each state where the individual resided in the past 5 years, and the National Sex Offender Registry.

(b) The department of safety shall submit the criminal history records release form to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(c) The costs of criminal history record checks shall be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of the criminal history check of the employee.

III. Notwithstanding paragraph I, a licensee may make a final offer of employment and allow a person to begin working in the program while the results of the state and national criminal background check is pending provided that, prior to beginning employment, the applicant completes a ~~[sworn]~~ statement ~~[signed by a notary public or justice of the peace]~~ stating that he or she:

(a) Does not have any felony conviction in this or any other state.

(b) Has not been convicted of a sexual assault, assault including simple assault, any other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to well-being of children, such as a violent crime or a sexually-related crime against an adult.

(c) Has not had a finding by the department or any administrative agency in this or any other state for abuse, neglect or exploitation of children.

IV. The results of the ~~[federal]~~ criminal background check shall be valid for ~~[3]~~ 5 years. Prior to the expiration of that ~~[3-year]~~ 5-year period, a person ~~[required to]~~ *responsible for the care of, or who has regular contact with children in child care institutions or child care agencies, or household members, or other persons who will have regular contact with children, shall* undergo a ~~[criminal]~~ background check pursuant to this section ~~[shall submit a new set of fingerprints and undergo a subsequent federal criminal background check. If a person who is or has been employed or volunteered at a child care institution or child care agency is offered employment or volunteers at another child care institution or child care agency or a child day care agency, the person shall, before entering employment or volunteering with the new agency, undergo a New Hampshire state criminal records check through the department of safety and shall complete a sworn statement as set forth in paragraph III].~~

IV-a. If a person who is or has been employed or volunteered at a child care institution or child care agency is offered employment or volunteers at another child care institution or child care agency or a child day care agency, the person shall not be required to undergo the criminal records check described in paragraph I-a if the previous criminal records check was completed within the last 5 years and the person was determined by the department to be eligible for employment. Before entering employment or volunteering with the new agency, the person shall complete a statement as set forth in paragraph III.

V. *The department shall make a determination regarding the individual's eligibility for employment no later than 45 days from submission of all required information as described in paragraphs I and I-a. If any person whose name has been submitted for a check under this section ~~[has been convicted of a violent or sexually related crime against a child,]~~ is registered or required to be registered on a state sex offender registry or repository, or the National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect, a crime against children including child pornography and trafficking, spousal abuse, a crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense*

committed during the previous 5 years, or any other violent or sexually related misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child pornography, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall:

(a) If the person is the applicant or owner, revoke or deny the license.

(b) If the person is a board member, household member, or child care institution or child care agency personnel, or any other person having regular contact with the enrolled children[~~;~~

~~(1)]~~ inform the child care institution or child care agency that the person [~~poses a threat to children~~] *is ineligible for employment* and give the program an opportunity to take immediate corrective action to remove the person from the program, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the person will not be on the premises of the child care institution or child care agency and shall have no contact with children enrolled in the child care institution or child care agency[~~;~~ and/or].

~~(2)]~~ (c) Suspend, deny, or revoke the license or permit if the child care institution or child care agency refuses to take corrective action as indicated in subparagraph (b)[~~(1)~~], or subsequently fails to comply with the corrective action plan approved by the department.

VI. If any person whose name has been submitted for this check has been convicted of a felony offense or violent crime deemed directly or indirectly harmful to children in child residential care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a license[~~;~~ or permit[~~;~~ or registration] pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the person [~~poses a present threat to the safety of children~~] *is ineligible for employment*. The investigation shall include an opportunity for the person to present evidence on his or her behalf to show that the person does not pose a threat to the safety of children.

~~[VII. At the time the licensee is next due to renew the license, the licensee shall submit a notarized criminal conviction record release authorization form and a set of fingerprints to the department of safety for any existing employee or household member who is 17 years of age or older and who has not undergone a national criminal background check as of the effective date of this section. Upon receiving the results of the state and national criminal records check, if the licensee learns that a current employee has been convicted of any felony, a sexual assault, any other violent crime, assault including simple assault, abuse, neglect or any other crime that shows that they may pose a threat to well being of children, such as a violent crime or a sexually related crime against an adult, or has a founded allegation of abuse, neglect or exploitation against children, the licensee shall either terminate the employee or suspend the employee and promptly request a waiver from the department allowing the employee to resume working in the program. Upon receiving the results of the state and national criminal records check, if the licensee learns that a current household member has been convicted of any felony, a sexual assault, any other violent crime, assault including simple assault, abuse, neglect or any other crime that shows that the person may pose a threat to well being of children, such as a violent crime or a sexually-related crime against an adult, or has a founded allegation of abuse, neglect or exploitation against children, the licensee shall take immediate corrective action to remove the person from the child care institution or child care agency, and, in conjunction with the department, develop a corrective action plan, approved by the department, which shall ensure that the person will not be on the premises of the child care institution or child care agency and shall have no contact with children residing in the child care~~

~~institution or agency. If the licensee fails to take such corrective action, the department shall suspend the license until such time as the licensee does implement the corrective action, or it shall revoke the license.]~~

VII.(a) Once the department has made a determination that the individual required to complete a criminal record check under paragraph I-a is eligible for employment, the department shall issue a child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in RSA 170-E:7, II-a(b). The state may require additional background checks to be completed based upon conviction information submitted.

(b) The fee for a child care employment eligibility card shall be \$50, and the card shall be valid for 5 years from the date of issuance. The fee for a replacement card shall be \$15.

VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

158:7 Effective Date. This act shall take effect October 1, 2016.

Approved: May 27, 2016

Effective Date: October 1, 2016

Mayo, Alyson

From: Michael Field <mfield@CityofBath.com>
Sent: Monday, September 26, 2016 8:43 AM
To: Mayo, Alyson
Cc: Stocco, Janet
Subject: RE: Fingerprinting Child Care Workers

Good morning,

Here is the results of my email list serve question:

27 agencies responded. All municipal.

22 stated they do fingerprinting free of charge for anyone.
1 said no. They are sent to the Waldo Sheriff's Office
4 do it for a fee. The fees ranged from \$3 dollars to \$10 dollars.

Hope that helps.

Mike

*Michael W. Field
Chief of Police
Bath Police Department
250 Water Street
Bath, Maine 04530
207-443-8339*

From: Mayo, Alyson [<mailto:Alyson.Mayo@legislature.maine.gov>]
Sent: Wednesday, September 21, 2016 11:00 AM
To: Michael Field
Cc: Stocco, Janet
Subject: RE: Fingerprinting Child Care Workers

Hi Mike,

That sounds fantastic! Thank you for taking the time to do this.

Could you touch base with us Monday about any responses you've received, and whether you think it makes sense for someone to come in to talk to the Working Group at its meeting next Wednesday? We're hoping to put an agenda together Monday. Of course we are also happy to pass along information from you to the Working Group as well.

If I'm not in the office Monday, Janet plans to be here so you should be able to reach at least one of us. You can also reach either of us by phone at 287-1670.

Thank you very much,
Alyson

From: Michael Field [<mailto:mfield@CityofBath.com>]
Sent: Tuesday, September 20, 2016 12:49 PM
To: Mayo, Alyson
Cc: Stocco, Janet
Subject: RE: Fingerprinting Child Care Workers

Hi Alyson and Janet,

Thanks for reaching out. I will send out a list serve email to get a sense of what Departments are still willing to do or not do. We can discuss from there.

Sound good?

Mike

*Michael W. Field
Chief of Police
Bath Police Department
250 Water Street
Bath, Maine 04530
207-443-8339*

From: Mayo, Alyson [<mailto:Alyson.Mayo@legislature.maine.gov>]
Sent: Tuesday, September 20, 2016 11:31 AM
To: Michael Field
Cc: Stocco, Janet
Subject: Fingerprinting Child Care Workers

Hi Chief Field,

Janet Stocco and I are co-staffing the Legislature's Working Group to Study Background Checks for Child Care Facilities and Providers and our second meeting takes place next Wednesday, September 28th. The working group requested we contact you about your testimony on LD 1689 last year.

The working group (which includes two members of the Judiciary Committee and the sponsor of LD 1689) mentioned your March 31, 2016 testimony on LD 1689, An Act to Protect Children in the State from Possible Sexual, Physical and Emotional Abuse by Persons Who Have Been Convicted of Crimes. They were specifically referencing your statement "In Bath our Police Department does fingerprinting for free for residents and businesses in Bath and we charge a nominal fee, \$20, for everyone else. I would also like to share with this Committee that I have every confidence that when this bill passes, all local law enforcement will step up to help out if asked, as we do in Bath."

The working group would like to know whether Maine police departments are able to commit to fingerprinting local child care workers at no charge. Are you open to having a discussion on this? Do you have any recommendations for moving forward? How would it work for people who live and work in towns without a local police department? We have reached out to the sheriffs as well and maybe there is a way to coordinate.

If you are able to get back to us by next week that would be helpful and we can pass the information along to the committee. We realize you probably cannot give a yes/no answer at this point, but wanted to start the discussion. If you think it would make sense to discuss this with the working group, I would be happy to add you to our next meeting agenda.

Please let us know your thoughts.

RESPONSE FROM DHHS

Mayo, Alyson

From: Adolphsen, Nick <Nick.Adolphsen@maine.gov>
Sent: Wednesday, September 28, 2016 12:13 PM
To: Stocco, Janet
Cc: Mayo, Alyson; Katz, Roger; Frey, Aaron; Sorensen, David
Subject: RE: Questions from the Working Group to Study Background Checks for Child Care Facilities and Providers
Attachments: Child Care Background Check Responses 9.28.2016.pdf

Janet,

Please find attached, responses to the work group's questions. There are several links in the document, so reviewing it electronically will be best, but I will also have hard copies sent over to the work group for their reference.

Nick

From: Stocco, Janet [<mailto:Janet.Stocco@legislature.maine.gov>]
Sent: Tuesday, September 13, 2016 2:46 PM
To: Adolphsen, Nick
Cc: Mayo, Alyson; Katz, Roger; Frey, Aaron; Sorensen, David
Subject: RE: Questions from the Working Group to Study Background Checks for Child Care Facilities and Providers

Thank you very much, Nick, for the update. I appreciate it and will pass along the information. The next meeting is scheduled for the afternoon of September 28th. Perhaps this date may work?

Sincerely, Janet

--

Janet A. Stocco, Esq.
Legislative Analyst
Office of Policy and Legal Analysis
Maine State Legislature
Office Tel.: (207) 287-1670

From: Adolphsen, Nick [<mailto:Nick.Adolphsen@maine.gov>]
Sent: Tuesday, September 13, 2016 2:43 PM
To: Stocco, Janet
Cc: Mayo, Alyson; Katz, Roger; Frey, Aaron; Sorensen, David
Subject: RE: Questions from the Working Group to Study Background Checks for Child Care Facilities and Providers

Good afternoon Janet,

I just wanted to provide you with an update on the questions you provided to the Department last week. DHHS is pulling responses to your questions together, but we will not have the information prepared for the work group's discussion tomorrow. As soon as the responses are available, I will send them over.

Nick

From: Stocco, Janet [<mailto:Janet.Stocco@legislature.maine.gov>]

Sent: Tuesday, September 06, 2016 11:01 AM

To: Taylor, Sarah

Cc: Adolphsen, Nick; Mayo, Alyson; Katz, Roger; Frey, Aaron

Subject: Questions from the Working Group to Study Background Checks for Child Care Facilities and Providers

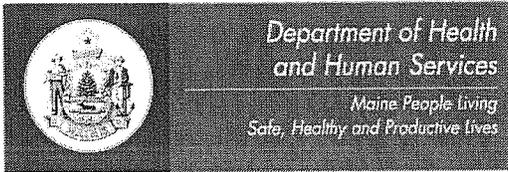
Ms. Taylor:

Attached please find a letter from Senator Roger Katz and Representative Aaron Frey, Chairs of the Working Group to Study Background Checks for Child Care Facilities and Providers, with questions related to implementation of the background check requirements of the federal Child Care and Development Block Grant Act of 2014. Your responses to these questions will be greatly appreciated and will provide invaluable assistance to the Working Group.

Sincerely, Janet Stocco

--

Janet A. Stocco, Esq.
Legislative Analyst
Office of Policy and Legal Analysis
Maine State Legislature
Office Tel.: (207) 287-1670



Paul R. LePage, Governor Mary C. Mayhew, Commissioner

Department of Health and Human Services
 Commissioner's Office
 221 State Street
 11 State House Station
 Augusta, Maine 04333-0011
 Tel.: (207) 287-3707; Fax (207) 287-3005
 TTY Users: Dial 711 (Maine Relay)

September 28, 2016

TO: Senator Roger J. Katz, Senate Chair
 Representative Aaron Frey, House Chair

FROM: Nick Adolphsen, Director of Government Relations and Policy, DHHS

RE: Response to Questions for the Department of Health and Human Services from the Working Group to Study Background Checks for Child Care Facilities and Providers established by HP 1167

1. How much money has been allocated to Maine through the federal Child Care and Development Block Grant for each of the past 5 years?
 - a. How is this money used? (*I.e.*, what amount or percentage of the funds is spent on administrative expenses, child care subsidies, child care provider training, etc?)
 - b. What amount, if any, of the grant funds allocated to Maine was unexpended in each of the past 5 years?
 - c. How much federal money has been returned to the federal government in the last 2 years?
 - d. Are there any funds held in accounts rather than spent or returned, and if so, how much and what accounts?

Response:

Federal Fiscal Year	Annual Allocations	Administrative Expenses (% of total expenses)	Licensing Services	Child Care Expenses (% of total expenses)	Total Expenses
2011	\$16,215,696.00	\$334,949 2.2%	\$707,315 4.7%	\$13,955,083 93.1%	\$14,997,347
2012	\$16,835,723.00	\$722,148 4.3%	\$2,250,174 13.4%	\$13,834,315 82.3%	\$16,806,637
2013	\$16,157,880.00	\$329,791 2.7%	\$1,427,906 11.8%	\$10,293,571 85.4%	\$12,051,268
2014	\$16,520,075.00	\$53,996 0.4%	\$976,394 8.0%	\$11,224,764 91.6%	\$12,255,154
2015	\$16,408,669.00	\$188,348 1.3%	\$1,618,746 11.4%	\$12,364,606 87.2%	\$14,171,700

Generally speaking, the Department does not draw down any additional funding other than what is needed to reimburse program expenses. Expenses are projected on a weekly basis and funding is drawn down respectively. Additionally, there are not any funds held in accounts as asked in question 1, part d.

It is important to consider that the Administration on Children and Families just released its final rules and changes to the CCDBG on September 23, 2016. The Department is actively evaluating these changes in order to identify federal requirements that will increase financial pressure and administrative burden on the program. For example, changes to eligibility, market rates and payments which will directly affect Maine's ability to manage overall program expenses. The Department expects that there will be an increased need for funding based on these changes in the federal rule. In addition, incentive-payments as an avenue to increase quality within child care centers continues to be a priority within the CCDBG. An increase in financial resources supporting these incentives may be required as the Department implements the changes made through the federal reauthorization.

In recent years, the Department has expanded the resources provided to families and providers with this funding. We have developed a website that provides direction and resources. It is an excellent resource for parents and guardians who need to choose a childcare provider and for those who want to stay informed about their provider. The database includes all licensed providers and shares information regarding quality of care and licensing history.

- The Child Care Choices website allows consumers to look up licensing details by provider. License histories, violations, written notification letters, and corrective action plans are available to be viewed by the public.
- Child Care Licensing regulatory requirements are easily accessible on the website and are available to be downloaded, viewed, and saved by consumers.
- Frequently asked questions on the consumer education website are focused on licensing information and help consumers understand processes for licensing, background checks, monitoring, and offenses that prevent individuals from being approved as providers.
- Data is available on the Child Care Choices website in an easy-to-understand format. The data points include number of deaths, serious injuries, and substantiated incidences of child abuse that occurred in child care settings.
- The website allows consumers to search for providers by zip code, city, and address. Additional filters are available including QRIS rating, type of provider, and ages served. A full site search feature is available as well as frequently asked questions, definitions, a color-coded legend, program types and concrete examples along with plain language throughout.

In May 2014, 16 new staff were hired, utilizing resources from the CCDBG, in the Children's Licensing Program including thirteen Child Care Licensing Specialists, two Supervisors and one administrative support person. This additional staff allowed the program to reduce caseloads of over 200 per worker to an average of 80 per worker which aligns with national standards – ensuring greater oversight and safer child care resources. The increase in staff has allowed the program to start using a differential monitoring inspection model in the field which is risk-based and allows Licensors to only visit those providers that need more assistance.

2. How much money has been allocated to Maine for the upcoming fiscal year from the federal Child Care and Development Block Grant?
 - a. How much grant money would Maine lose if the State did not implement the fingerprint-based national criminal history background check required by the federal Child Care and Development Block Grant Act of 2014?

Response: Grant amounts are unknown until the beginning of the Federal Fiscal year. In our experience, we have never seen a state penalized in this fashion, despite obvious non-compliance with the Federal requirements and with the state's own "state plan." In this instance, approximately \$800,000 – not the entire grant – could potentially be at risk.

3. What progress has the Department made toward promulgating the rules for fingerprint-based background checks of child care providers required by P.L. 2015, Ch. 497?
 - a. What is the Department's anticipated rulemaking timeline?
 - b. Does the Department plan to address the issues of provisional hiring pending background check results and who bears the responsibility for the costs of the background checks in these new rules?
 - c. Does the Department believe that any additional state statutory amendments will be necessary to implement the fingerprint-based background checks required by the federal Child Care and Development Block Grant Act of 2014?

Response: The Department is in the process of drafting the required rules and are currently on track to meet the guidelines outlined in P.L. 2015, Chapter 497. In drafting, the Department will consider options, within the constraint of current law, to ensure the least burden possible on the business owner.

4. Has the Department submitted to the federal government, or does it plan to submit, an amendment to the Maine State CCDF Plan for 2016-2018 reflecting the State's commitment in P.L. 2015, Ch. 497 to implement fingerprint-based background checks of child care providers?

Response: On August 8, 2016 the Department submitted a revised plan for the State of Maine CCDF State Plan reflecting a commitment to fulfill these federal changes.

5. What progress has been made toward implementing the Maine Background Check Center Act, Title 22, Chapter 1691, and drafting the rules necessary to achieve the purposes of the Act?
 - a. When does the Department plan that the Center will become operational?
 - b. Does the Department have any suggestions regarding how the Maine Background Check Center can help coordinate and streamline the background check process for child care facilities and providers required by the federal Child Care and Development Block Grant Act of 2014?

Response: The Department is implementing the MBCC without final rules as the statute is very robust. There will be a staged implementation, with long term care providers being the first group, followed by assisted housing/adult day providers, home health care and hospice agencies, ICF/IIDs, personal care and placement agencies, and temporary nurse agencies. Once these groups are up and running, there will be another staged on-boarding for behavioral health providers, drug treatment centers and all of the child care providers. The reason for this prioritization relates to the CMS funding for the program, through the National Background Check Program that aims to protect residents/clients receiving care within a long-term care setting.

At present, the MBCC system is designed to incorporate biometrics.

The MBCC is meant to be a one-stop site for conducting background checks, which will include access to various registries, the SBI, the OIG excluded providers list, etc. The Department is still working on the process of integrating the Adult Protective Services and Child Protective Services substantiated abuse, neglect, misappropriation of property offenders into the MBCC; this will be done through the CNA registry (ALMS). For many providers, this will allow for a streamlined approach. Also, the rap-back, once implemented, will ensure that employers of direct care workers are kept apprised of crimes committed after an initial background check has been completed. The rap-back isn't up and running yet, but it is anticipated that it will be available within the next few months. It is common for background check programs to go live with the basic components and then subsequently add to the program as additional components are available.

6. How much does the Department charge for a state child abuse background check and how long does it take to obtain the results of the check?

Response: It takes an average of 24 hours to 3 business days to complete a state child abuse background check and costs \$15.00.

7. What is the process for applying, processing applications, and commencing payment of subsidies for individuals who wish to receive subsidies to assist in paying child care costs?

Response: Below is information that we give to individuals inquiring about Maine's Child Care Subsidy Program. It addresses eligibility, application, and payments.

Maine's Child Care Subsidy Program

The Child Care Subsidy Program helps eligible families to pay for child care so they can work, go to school or participate in a job training program.

Who is eligible to receive Child Care Subsidy?

Eligible families must meet the [income guidelines](#)

And

At least one of the following activities:

- work
- school
- job training program

*Generally speaking, the amount of child care subsidy received is commensurate to the number of hours either worked, in school or in job training. For example, if a individual is working (or going to school or job training) 1-5 hours per week, the individual would be eligible for 25% of a full-time child care slot. Equally, if they are attending one of these activities 6-10 hours per week, the individual would be eligible for 50% of a full-time child care slot. In order to access a full-time child care slot, an individual must be engaged in a combination of these activities 29 hours a week or more.

Who can I choose as my child care provider?

- Licensed or certified child care centers
- Licensed or certified family child care homes
- Adults who provide care in their own homes
- Adults who come to your home to provide care
- Relatives over the age of 18

How do I apply?

Step 1

- Apply for Child Care Subsidy in one of the following ways:
 - At local DHHS office (Office of Family Independence-OFI)
 - Online at www.maine.gov/MyMaineConnection
- Once you are determined to be **financially eligible**, proceed to step 2

Step 2

- Complete the Child Care Subsidy Program Application (you can get this from OFI or OCFS) and return it to the Office of Child and Family Services (OCFS):
 - Fax: 207-287-6308
 - Email: CCSP.DHHS@maine.gov
 - Mail: 2 Anthony Avenue SHS#11 Augusta, ME 04333-0011
- Once you are determined to be **program eligible**, and the provider you choose is approved, payments will be made directly to your provider on your behalf.

How much will the Child Care Subsidy Program pay to my child care provider?

You pay your co-payment to your provider and the Child Care Subsidy Program will pay the rest to your provider, up to the Market Rate, for your area.

How do I find a child care provider?

For help with locating child care visit:

Child Care Choices or call 1-877-680-5866

What are the rules of the Child Care Subsidy Program?

Child Care Subsidy Program Rules

How is the Child Care Subsidy Program funded?

The Child Care Development Fund (CCDF) is a federal block grant that provides funding for states aimed at improving access to quality child care for high-need children and families.

Who do I contact with questions?

Contact us:

- By phone at 1-877-680-5866 or 207-624-7999
- By email CCSP.DHHS@maine.gov
- By fax 207-287-6308

A report that can be found at

https://nwlc.org/wp-content/uploads/2015/08/nwlc_2014statechildcareassistancereport-final.pdf/ which provides additional detail about these programs nationally giving a broader context. Page 22 in particular highlights the income eligibility limits and where we stand nationally.

8. Please provide the number of individuals employed by the child care facilities in Maine. If the number of child care staff is not available, then please provide the total number of child care facilities (both center-based and home based) that have a current active license in Maine.

Response: We do not have data that reflects the total number of staff employed at licensed/certified child care programs in the State. As of September 1, 2016 there are 1,109 family child care providers, 781 facilities, and 64 nursery schools.

