

CRIMINAL BACKGROUND CHECKS FOR REGISTERED FAMILY CHILD CARE PROVIDERS AND APPROVED HOMES

A COMPREHENSIVE CRIMINAL BACKGROUND CHECK INCLUDES:

- Criminal History Record Information (CHRI) Fingerprint check;
- State and National Sex Offender Register Check; and
- Child Abuse Record Information (CARI) Check (staff ages 14 and older will be required to undergo the CARI check).

There is no cost to you for any of these checks.

WHO MUST HAVE A COMPREHENSIVE CRIMINAL BACKGROUND CHECK?



Anyone who is 18 years of age or older and involved in a child's care or supervision or who may have unsupervised access to children. This includes anyone who lives in a registered or approved family child care home.

Criminal background checks are required even if you do not accept child care subsidy funds.

DISQUALIFYING CRIMES AND INELIGIBILITY FOR CHILD CARE SUBSIDY FUNDING

You may lose your registered family child care or approved home status and be ineligible for child care subsidy funding if you, or anyone mentioned above:

- Refuse to consent to the criminal background check;
- Knowingly makes a false statement;
- Are registered, or are required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry;
- Have been convicted of a felony, including the following crimes: murder, child abuse or neglect, crimes against children including child pornography, spousal abuse, crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or drug-related offenses committed during the preceding 5 years; or
- Have been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.

FOR MORE INFORMATION, VISIT WWW.CHILDCARENJ.GOV



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DIVISION OF FAMILY DEVELOPMENT PROGRAM INSTRUCTION

SUBJECT: CCDBG Comprehensive Criminal
Background Check Requirements

DATE:

EFFECTIVE DATE:

DFDI NO.:

IMPACTED PROGRAM(S): Child Care
Program

I. PURPOSE

This Instruction establishes policy and procedure related to the New Jersey Child Care Program, informing all Registered Family Child Care (FCC) Providers and Approved Homes, Family, Friends and Neighbor Providers who are eligible to deliver Child Care Development Fund (CCDF) services of the federally mandated comprehensive criminal background check requirements.

II. AUTHORITY

The CCDBG Act (42 U.S.C. § 9857 et seq.), as amended; section 418 of the Social Security Act (42 U.S.C. § 618); 45 C.F.R. Parts 98 and 99; N.J.S.A. 9:6-8.10a, 30:5B 1-16 et seq.; and N.J.A.C. 3A:52-4.10 and -4.11, 3A:54-5.3.

III. OVERVIEW

The Child Care and Development Block Grant (CCDBG) Act, as amended, along with Section 418 of the Social Security Act authorizes the primary funding for New Jersey's Child Care Subsidy Program. In November 2014, Congress reauthorized the CCDBG Act to increase the health, safety, and quality of CCDF-funded child care. The reauthorization requires comprehensive background checks of all current and prospective employees, including volunteers, and individuals who have unsupervised access of child care providers, and household members of Family Child Care providers.

New Jersey's implementation of the CCDBG background check requirements will be shared among the following regulatory/authorizing agencies:

- Department of Human Services (DHS) – The CCDF lead agency that oversees child care providers (Approved Homes and In-Home) via Child Care Resource & Referral (CCR&R) Agencies through the Division of Family Development (DFD). DHS' Employment Controls and Compliance Unit (ECCU) collects, reviews, interprets, and disseminates all Criminal History Record Information (CHRI) background checks, as part of the initial and renewal license/certification application process for Licensed Child Care Centers, Family Child Care Home Providers, and Approved Homes (Family, Friend and Neighbor).
- Department of Children and Families (DCF) – The authorizing agency that licenses all child care providers through their Office of Licensing (OOL). DCF's Child Abuse Record Information (CARI) Unit coordinates the CARI background checks, which are part of the initial and renewal license/certification application process for providers.
- Department of Health (DOH) – The authorizing agency that issues Certificates of Approval to establish and operate youth camps. It also conducts health and safety inspections, in addition to criminal background name checks and sex offender registry checks.

For Your Immediate Attention:

Starting January 2, 2020, DHS/DFD will begin phasing in the criminal background check requirements for all Family Child Care and Approved Home Providers as follows:

- Existing Providers with March and April Certificate of Registration and Approved Home renewals consist of the first group required to complete the comprehensive background checks. Please note that any new Provider that has yet to complete the registration or approval process as of January 2, 2020 are required to comply with the comprehensive background check.
- Providers with March and April renewals must complete and submit all required criminal background check paperwork by the first week in February 2019. Providers with Certification of Registration renewal dates after April 2020 will be phased in monthly thereafter and must complete and submit the required paperwork within thirty (30) days of receiving the renewal packet. For example, providers with May renewals shall receive the required criminal background check paperwork no later than mid-February 2019 and required to complete and submit required criminal background paperwork by March 2020.
- New providers must complete and submit the required criminal background paperwork within thirty (30) days of receiving their registration packet. Scheduling fingerprints may take up to ten (10) days.

IV. DEFINITIONS

- Staff Member/Provider – Any individual (other than an individual who is related to all child(ren) for whom child care services are provided) who is employed by a child care provider or who has unsupervised access to children in care. It includes full-time, part-time, voluntary, self-employed or contracted personnel, whether or not compensated, and anyone who cares for, supervises or has unsupervised access to children in child care settings.
- Volunteer – Any individual who provides infrequent and irregular service that is supervised. These individuals are not caring for or supervising children for a child care provider; they are providing additional assistance under the supervision of the primary caregiver.
- Criminal History Record Information Check (CHRI) – A criminal history background check which determines whether a person has been convicted of one of the disqualifying crimes listed at 45 C.F.R. §98.43 (c)(1)(iv) and (v). This check includes searches of FBI fingerprints, In-State criminal registry or repository and the National Crime Information Center's (NCIC) National Sex Offender Registry (NSOR).
- Child Abuse Record Information Check (CARI) – A child abuse and neglect background check which determines whether a person has a substantiated incident of child abuse or neglect.
- "Regular Basis" – A term used to describe the extent to which an employee remains in the child care setting longer than fifteen (15) consecutive days, or on a frequent intermittent basis.

V. POLICY

A. Background Check Requirements. Effective immediately all Family Child Care (subsidy and non-subsidy) and Approved Home Providers receiving funding through the Child Care Subsidy Program are required to complete the following five (5) mandatory components to the comprehensive background check via the CHRI, CARI, and the interstate criminal background checks (if applicable), at **no cost** to the provider:

- National - National Crime Information Center's (NCIC) National Sex Offender Registry (NSOR) check;
- National - A Federal Bureau of Investigation (FBI) criminal history check, using the Next Generation Identification;
- State (In-State/Inter-State) - State criminal history registry or repository check in the state where the child care staff member resides and each

additional state where such staff member resided within the preceding five (5) years;

- State (In-State/Inter-State) - State sex offender registry or repository check in the state where the child care staff member resides and each additional state where such staff member resided within the preceding five (5) years; and
- State (In-State/Inter-State) - State child abuse and neglect registry and database checks in the state where the child care staff member resides and each additional state where such staff member resided within the preceding five (5) years.

B. Scope of the Requirement. Background check requirement applies to the provider, staff, any adult household member 18 years old and older, including volunteers who are responsible for the direct care or supervision of children, or who has unsupervised access to children. Household members ages 14-17 are only required to undergo CARI checks.

C. Child Care Resource & Referral Agencies Oversight Responsibility. CCR&Rs are responsible for ensuring that all Family Child Care Providers are informed of the policy and procedures set forth in this Instruction, provide the appropriate resources and technical assistance, and provide the link to the criminal background check policy page on the New Jersey Child Care website (www.childcarenj.gov), to ensure full compliance, and provide continual oversight and monitoring.

D. Frequency of Background Checks. Background checks must be completed at least once every five (5) years. Background checks must also be completed every time a Provider relocates to another county. Additional background check requirements by other regulatory entities may be imposed, as required by law.

E. Interstate Background Checks. Providers, staff or other household members who have resided in another state within the preceding five (5) years must obtain background check clearance from those respective states, which includes the following clearance:

- State criminal registry or repository check in the state where they resided;
- State sex offender registry or repository check in the state where they resided; and
- State child abuse and neglect registry and database checks.

F. Background Findings. If any of the following result from the background check of the Provider, the Provider will no longer be eligible for the subsidy payment :

- The background check reveals that an incident of child abuse or neglect was substantiated;
- The background check reveals that one of the listed disqualifying crimes is substantiated (See “Federal Disqualifying Crimes” attached.);

- If an employee refuses to consent to the criminal background check;
- If the sponsor or sponsor representative refuses to consent to the background check; or
- If an employee knowingly makes a materially false statement related to the criminal background check.

G. Confidentiality. All information and correspondence related to the background checks must be kept confidential and secure. All providers will be subject to unannounced annual visits from the OOL and DHS, during which they will verify that all required documentation are in the provider file, among other compliance requirements.

H. Disclosure of Criminal Conduct. If at any time, a Provider becomes aware that a household member has a pending criminal charge(s), they must notify the CCR&R immediately.

VI. PROCEDURES

A. Initiating the Background Check Process

The CCR&Rs distributes the following information to all new FCC providers and those providers with a March and April renewal dates to comply with the background check requirements. Thereafter, providers will be phased-in monthly, schedule attached with this DFDI. Information distributed shall include the following documents:

1. Child Abuse Record Information Online Request;
2. Universal Fingerprint Form; **System generated through CARES**
3. Out of State - (All household members required to complete background check must complete this Disclosure Form); and
4. Household member changes – (Required to complete - if there has been any changes in the household within the past three (3) years.); and

The CCR&Rs completes the Family Child Care tracker and submit monthly (15th of the month) to DFD's Family Child Care Specialist.

Providers are responsible for making sure, staff, volunteers and each household member required to receive background checks completes the on-line Child Abuse Registry Information (CARI) application, the Universal Fingerprint Form and the Out of State Disclosure Form to begin the background check process.

Once the fingerprint check is complete, the Provider submits the receipt to the CCR&R, which confirms the fingerprint has been completed. CCR&Rs retain a copy (scan or take picture) of the returned documents, for at least three (3) years, in the provider file, as well as in NJCCIS.

B. Child Abuse Record Information (CARI) Check

The CCR&Rs are the sponsoring organization for the management of the Certificate of Registration and Approved Home process and authorized to initiate the electronic CARI requests on behalf of Family Child Care and Approved Home Providers utilizing the State's portal "My New Jersey".

Providers are responsible for making sure all individuals required to comply with the CARI check complete the online application within 30 days of email notification from the CCR&Rs to avoid expiration of the Certificate of Registration.

If the household member refuses to consent to a CARI background check, the CCR&Rs deny the application or suspend, revoke or refuse to renew the Certificate of Registration. However, the Provider may choose to remove or replace the person who refuses to consent to a CARI background check, before the denial, suspension, revocation or nonrenewal takes effect. If the provider removes or replaces such person, the CCR&Rs shall continue the registration process.

If provider refuses to consent to a CARI background check, the CCR&Rs deny the application or suspend, revoke or refuse to renew the Certificate of Registration.

C. Criminal History Record Information

CCR&Rs must distribute the *New Jersey Universal Fingerprint Form*, which includes instructions directly on the form, how to complete, required identification and how to schedule an appointment. The form is located in the CARES system and includes pre-printed information and a CCR&R unique identifier.

There are two versions of the New Jersey Universal Fingerprint forms in CARES – "Employee and Volunteer".

1. *The "Employee" Form – applies exclusively for the Provider and Staff. The term "Employee" on this form – is defined as an individual who provides child care services for compensation. Nothing in this instruction or on the Universal Fingerprint Form is intended to give to family child care providers, or imply that family child care providers shall be construed to grant family child care providers status as State or CCR&R employees for any purposes.*
2. *The "Volunteer" Form – applies to household members and volunteers.*

CCR&Rs must review the pre-printed information and fill in the name section ONLY the individual required to complete fingerprint requirement. Each individual required to complete the CHRI must complete the Universal Fingerprint Form before scheduling for an appointment.

Providers will inform their staff, volunteers, and other household members to complete the form and schedule an appointment for their background check with the authorized state vendor within thirty (30) days of receiving written notice from CCR&R. Scheduling may take up to ten (10) days.

D. Interstate Check

All Providers, staff, volunteers and household members who have resided in one or more states outside of New Jersey in the previous five (5) years from the date of application must clear both CARI and CHRI background checks in that state(s).

To ensure compliance, the Provider and all required individuals subject to complete a background check must complete and submit to the CCR&R the Out of State Disclosure Form. CCR&Rs are responsible for informing and coordinating with ECCU those individuals required to complete the interstate check.

CCR&Rs will also communicate and coordinate with ECCU when they are aware of pending criminal charge(s) against a provider and household members.

To satisfy the interstate criminal history background check, the ECCU will conduct the interstate background check on the applicant's behalf.

Once the appropriate clearance(s) is received, the Provider coordinates with the regulatory/authorizing agency who will determine whether the applicant is cleared or not cleared for employment.

E. Background Check Findings

1. CARI Checks

The CARI Unit will review all background check results and determine the appropriate course of action as follows:

- If the CARI background check reveals No record (a) above, the CCR&Rs may issue or renew the Certificate of Registration, provided that all other applicable requirements of CCDBG and N.J.A.C. 3A:54 have been met.
- If the CARI background check reveals that, Record, the CCR&Rs sends out the notice to the Provider and deny the application or suspend, revoke or refuse to renew the Certificate of Registration and inform that the denial, suspension, revocation or nonrenewal based on the results of a CARI background check.
- If the CARI background check reveals that, record against a household member (Non-Provider), the CCR&R sends out the notice and inform the Provider he/she may choose to remove or replace the person before the denial, suspension, revocation or nonrenewal takes effect. If the provider removes or replaces such person, the CCR&Rs continue the registration process.

2. CHRI Checks

The ECCU will review all background check results and determine the appropriate course of action as follows:

- If the CHRI is returned with no record of disqualifying convictions, the ECCU will send a clearance letter to the CCR&R and OOL.
- If the CHRI contains a disqualifying conviction(s), ECCU will notify the CCR&R and OOL that the applicant is not cleared. The applicant will receive a letter stating that he/she is not cleared, which will include the disqualifying convictions that led to the determination.
- If the CHRI is returned without a corresponding disposition/missing information, ECCU will notify OOL, the CCR&R, and applicant that the applicant needs to obtain the disposition from the court. The applicant will be given instructions to forward the disposition to the ECCU for review. The ECCU will subsequently provide OOL and the CCR&R with a response regarding the outcome of the charges.
- If the CHRI contains a conviction of a drug offense that occurred more than five (5) years prior, ECCU will notify the CCR&R and OOL that the applicant must demonstrate rehabilitation in order to be cleared. The applicant will receive a letter stating that he/she is not cleared until he /she can successfully demonstrate rehabilitation.

F. Ongoing Monitoring

1. Flags

If ECCU receives notifications of subsequent arrests and convictions after the initial background check, the appropriate course of action will be coordinated among the respective authorizing agencies. The proper action regarding a subsequent arrest will be determined on a case-by-case basis.

ECCU will notify the CCR&R and OOL of disqualifying convictions that require any action/removal. ECCU will also notify OOL of any arrests that may be serious in nature or a potential disqualifier, at which time OOL will make a determination as to whether any action will be taken.

If CARI Unit informs a record is found and the Provider informs the individual has been removed, the CCR&R must conduct an unannounced visit within two (2) days to verify the individual has been removed.

CCR&Rs must inform the Provider to complete and submit the Change in Household Size Form.

2. Change in Household for FCCs

FCC providers must complete the **Change in Household Size Form** and submit to the CCR&R within three business days whenever there is a change in household

size, such as individuals residing or regularly staying over, who may be required to subject to criminal background checks. In such cases, the CCR&R completes the Flag form sends it to ECCU.

G. Appeals

Applicants who have not been cleared for employment, and who wish to challenge the accuracy of the CHRI background check findings, may contact the State of New Jersey, Department of Human Services, Employee Controls and Compliance Unit, within fourteen (14) days of the date of the disqualification notice (or otherwise stated in the notice), to request an Administrative Review.

Similarly, applicants who have not been cleared for employment, and who wish to challenge the accuracy of the CARL background check findings, may contact the State of New Jersey, Department of Children and Families, Office of Licensing, within twenty (20) days of receipt of the disqualification notice (or otherwise stated in the notice) to request an Administrative Review.

H. Securing Forms

The Fingerprint receipt, Change in Household Size or Number, Out of State, Flag Removal and any other related Criminal background check forms must be placed in the provider file and uploaded in NJCCIS.

1. FORMS AND ATTACHMENTS

- CCDBG Federal Disqualifying Crimes
- New Jersey Universal Fingerprint Form (Employment)
- News Jersey Universal Fingerprint Form (Volunteer)
- Universal Fingerprint Application and Findings Guidance
- Fingerprint Phase-in Schedule
- Change in Household Size or Number Form
- DHS (ECCU) Flag Removal Form
- Out of State Background Check Disclosure Form
- Criminal Background Check Tracker

2. Accessing the Universal Fingerprint Application in CARES

CCR&Rs shall only access the Universal Form when required to perform criminal background checks of providers and individuals that are statutorily required to complete the fingerprint requirement. The forms are located in CARES under the “Print Menu” in the “Eligibility Documents” section. After the “Fingerprint Form” option is selected, a prompt will be displayed to select the correct form to be printed, the Volunteer or the Employment form. Please see the screen shots below.

The forms cannot be altered and shall be accessed Only through CARES unless prior approval is granted by DFD.

Please disseminate this DFDI to all child care providers, effective immediately. If you need additional guidance, please contact your Child Care Specialist.

Sincerely,

Natasha Johnson
Assistant Commissioner

NJ:TT:MM:MP

c: Brian Ross, Assistant Commissioner
Department of Children and Families

Elisa Neira, Deputy Commissioner
Department of Human Services

Lauri Woodward, Director
OPIA - Office of Licensing