



New Program Instruction on Background Checks

In October 2017, the Administration and Families (ACF) published a guidance updating the requirements on background checks mandated under the Child Care and Development Block Grant (CCDBG) Act of 2014.

State Lead Agencies that administer Child Care and Development Fund (CCDF) CCDF will have just over one year to develop a process for completing National Crime Information Center National Sex Offender Registry background checks. The CCDF Final Rule did not originally include a deadline for Lead Agencies to meet this requirement. The Office of Child Care announced that CCDF Lead Agencies must meet all background check requirements by September 30, 2018. Background checks must include:

1. A Federal Bureau of Investigation fingerprint check using Next Generation Identification;
2. A search of the National Crime Information Center's National Sex Offender Registry, after guidance is issued by ACF and the Federal Bureau of Investigation; and
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 5 years:
 - State criminal registry or repository, with the use of fingerprints being required in the state where the staff member resides, and optional in other states;
 - State sex offender registry or repository; and
 - State-based child abuse and neglect registry and database

Background checks must include staff members who don't care directly for children but have unsupervised access to children. Separate instructions for Tribal Lead Agencies have not yet been announced.

One challenge to meeting these new requirements is that only law enforcement agencies may search the National Sex Offender Registry. In June of this year, the FBI said that it would allow state law enforcement to share the results of these searches with CCDF Lead Agencies. To satisfy the CCDF background check requirements, Lead Agencies must work with state law enforcement to complete National Sex Offender Registry searches and FBI fingerprint checks for all child care staff members. The Office of Child Care will not begin looking at compliance with this requirement until September 30, 2018. CCDF Lead Agencies will be expected to describe how they are conducting these background checks in their CCDF FY 2019-2021 state plans.

Final Rule (September 2016) on Background Checks

In the final rule that was published last fall, ACF interpreted the statutory language included in the CCDBG Act of 2014 that all licensed, regulated, and registered child care providers eligible to deliver CCDF services (except relatives) are subject to the background check requirements. In addition, the final rule applied this requirement to all licensed, regulated, or registered providers, regardless of whether they receive CCDF funds and all license-exempt CCDF providers (with the exception of relatives).

The final rule confirmed the compliance date of September 30, 2017 and that any staff who were employed prior to the enactment of the CCDBG Act of 2014 must submit their information to complete a background check request by the same date. However, these staffers may continue to work while their background checks are being processed (and must be under supervision). In addition, if a staffer who's employed before enactment of the last CCDBG Act already met all the requirements defined in the 2014 law, then the provider will not have to submit a new request for five years following the date of completion of last background check.