




State of Florida
Department of Children and Families


Rick Scott
Governor

Mike Carroll
Secretary

DATE: February 3, 2017

TO: Regional Managing Directors

THROUGH: David L. Fairbanks, Deputy Secretary 

FROM: JoShonda Guerrier, Assistant Secretary for Child Welfare 
Vicki Abrams, Assistant Secretary for Operations

SUBJECT: CFOP 170-3, Criminal Justice Information Services (CJIS)
Chapter 12, Criminal Background Checks for Child Care Personnel

PURPOSE: The revised Criminal Background Checks for Child Care Personnel operating procedure replaces part of CFOP 60-19, Caretaker Screening. This update moves the operating procedure from the Personnel series to the Child Welfare series and has been rewritten to include information on the Care Provider Background Screening Clearinghouse which did not exist when CFOP 60-19 was revised in 2006.

BACKGROUND: The effort to establish a comprehensive set of child welfare operating procedures began in early 2015. Part of this process is updating and converting policies under other series to the 170 series (Child Welfare).

This operating procedure has been rewritten to include current technologies and better capture the current business flow. A second operating procedure, CFOP 170-3, Chapter 13, Caretaker Screening, is in the final stages to fully replace CFOP 60-19.

ACTION REQUIRED: Please share this memorandum and revised operating procedure with all child care regulation staff as appropriate and ensure that the revised operating procedure is implemented.

CONTACT INFORMATION: If you require additional information or have any questions, please contact Diane Harris, Background Screening Program Manager, Office of Child Welfare at (850) 717-4636 or Diane.Harris@myflfamilies.com.

cc: Regional Family and Community Services Directors
Center for Child Welfare

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Mission: Work in Partnership with Local Communities to Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

Chapter 12

Criminal Background Checks for Child Care Personnel

- 12-1. Purpose, Scope, and Authority. This operating procedure provides guidance for caretakers subject to Level 2 screening under the following sections of Florida Statutes (F.S.):
- a. Section 402.301, F.S. relating to national membership organizations
 - b. Section 402.302, F.S. relating to transient establishments
 - c. Section 402.305, F.S., relating to child care facilities and specialized child care facilities for the care of mildly ill children;
 - d. Section 402.3025 F.S., relating to nonpublic schools
 - e. Section 402.3131, F.S., relating to licensed large family child care homes;
 - f. Section 402.313, F.S., relating to registered and licensed family day care homes;
 - g. Section 402.3054, F.S., relating to child enrichment service providers;
 - h. Section 402.316, F.S., relating to religious exempt child care programs;
 - i. Section 409.175, F.S., relating to summer day camps and summer 24-hour camps
 - j. Section 1002.88, F.S., relating to informal child care providers participating in the school readiness program.
- 12-2. Definitions. See Attachment 1 to this chapter.
- 12-3. Required Components of Screening. Pursuant to s. 402.302, F.S., the Department will determine screening eligibility for licensure, registration, employment, and/or volunteer service based on results of the following:
- a. Employment history checks for the previous 5 years of employment,
 - b. A search of the criminal history records, sexual predator, and sexual offender registry of any state in which the applicant resided during the preceding 5 years, and child abuse and neglect registry,
 - c. A Child Care Affidavit of Good Moral Character (Form CF-FSP 1649A).
- 12-4. Establishing a Facility Originating Case Agency Number (Facility OCA). The Background Screening Program obtains information and determines if the provider is one whose employees must be screened in accordance to law, and, if so, which program and statute listed in section 12-1 of this operating procedure governs the provider. This will include a written description from the appropriate licensing entity or regulatory authority. If the provider is eligible for a Facility OCA, a search of the Caretaker Screening Information System (CSIS) should be conducted to ensure the provider does not have an existing Facility OCA. The Facility OCA will be issued or reactivated by the Background Screening Program and email notification send to provider and copying licensing entity.
- 12-5. Initial Screening Procedure.
- a. Fingerprint submission. A full set of fingerprints must be submitted to the Department or to a vendor, entity, or agency authorized in s. 943.053(13), F.S. The fingerprint submission must comply with the requirements of s. 435.12, F.S., relating to the Clearinghouse. Visit www.myflfamilies.com/backgroundscreening for training materials on how to use the Agency for Health Care's Clearinghouse system. The provider must initiate the screening in the Clearinghouse prior to the applicant's arrival at a live scan vendor location. Failure to do so may result in the Department's inability to determine eligibility for child care programs.

- 1) The vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing.
 - 2) The Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.
 - 3) After processing by the Federal Bureau of Investigation, the Department of Law Enforcement shall forward the results to the Department.
- b. Other states of residence. If an applicant has lived outside of Florida in the last five years, a request for a state criminal history is required.
- 1) If applicant has lived outside the state of Florida in the last five years as indicated during the initiation of the screening, a request to each state for a state criminal history check must be initiated by the provider or applicant. Information for obtaining out of state criminal history is found at www.myflfamilies.com/backgroundscreening. The Background Screening Program will document the screening is in process while awaiting out of state criminal history results in the criminal history tab of the Clearinghouse. The documentation will identify the state or territory required. The provider must provide the results of the out of state searches to the Department for completion of the background screening process.
 - 2) If the applicant lived outside the state of Florida in the last five years, review of the Florida's Level 2 requirements will occur.
- c. Abuse and neglect search.
- 1) The background screening unit will conduct a child abuse and neglect search in the Florida Safe Families Network system (FSFN) for the State of Florida. The FSFN search is conducted using the following demographic fields: applicant's last name, first name, date of birth and Social Security number (SSN). DO NOT enter the applicant's middle initial in the search string, as this may limit results. Instead, cross-reference the middle initial with the search results. The following search string combinations must be conducted:
 - i. Each field must be completed for a combined search;
 - ii. Name (first and last) and date of birth without social security number; and
 - iii. Social security number only. (SSN field will dominate the search and could cause a subject to be overlooked if SSN was entered incorrectly or no SSN was entered for subject).

If the applicant has a prior name, each of the above searches must also be conducted for each prior name.
 - 2) The findings of the search of FSFN will be noted on the individual's profile page in the Clearinghouse.
- d. The employer/owner/operator must send a request for a search of each state's child abuse and neglect registry for each individual that has lived outside the state of Florida in the preceding five years. Information and instructions can be found at <http://www.myflfamilies.com/backgroundscreening>, Out of State Abuse Registry Check link. The results will be maintained in the employee personnel file.
- e. Employment History Check. The employer must conduct an employment history check, including, at a minimum, three documented attempts to contact each prior employer of the applicant within the preceding 5 years, including employment outside the State of Florida. Contact attempts and the findings must be documented in writing and maintained in the employee personnel file
- f. Affidavit of Good Moral Character. The applicant must complete a notarized Child Care Affidavit of Good Moral Character (Form CF-FSP 1649A) attesting to his/her eligibility and submit it to the employer, licensing entity or regulatory authority.

- g. Sexual Offender Registry Check. The employer must complete a sexual offender and sexual predator check for each state for which the applicant has resided within the previous 5 years. The results will be maintained in the employee personnel file. The Florida Sexual Offender Registry Check is included in the state's criminal history records search completed by FDLE.

12-6. Rescreening Procedure. A new Level 2 screening, according to the procedures of the preceding section, must be conducted every 5 years, upon a break in service of 90 days or more, or if verification of the original screening cannot be obtained.

- a. If the individuals' fingerprints are found during a search of the Clearinghouse, the provider will initiate a resubmission in the Clearinghouse.
- b. Rescreening will be initiated in the Clearinghouse by the provider prior to the employee's arrival at a live scan vendor location if the individual is not found to exist in the Clearinghouse. Failure to do so may result in the Department's inability to determine eligibility for child care programs.

12-7. Analyzing Results.

- a. Once results have been received via the Clearinghouse and from other states of residency (if applicable), background screening staff will review all results to determine if any disqualifying criminal offenses, pursuant to s. 435.04, F.S., have been committed. Any out-of-state criminal offense which, if committed in Florida, would constitute a disqualifying offense, will be treated as a disqualifying offense.
- b. The Background screening unit will review FSFN for reports of abuse, neglect, abandonment or exploitation of a child or vulnerable adult.
 - i. If a search of FSFN does NOT reveal the applicant is a caregiver responsible in a report of abuse, neglect or abandonment, background screening staff will provide notification to the employer. The individual's profile in the Clearinghouse will be updated to advise the provider that the Department has reviewed child welfare records and there is no record of the applicant being the caregiver responsible for a verified finding of abuse or neglect of a child or vulnerable adult.
 - ii. If a search of FSFN does reveal the applicant is a caregiver responsible in a verified report of abuse, neglect or abandonment, the background screening staff will provide notification to the employer. The individual's profile in the Clearinghouse will be updated to advise the provider that the Department has reviewed and additional information may be available pursuant to Chapter 119, F.S. at the request of the individual applicant.
- c. Out-of-State abuse and neglect registry searches, once requested and obtained by the provider, will be reviewed and applied solely on the provider's discretion.

12-8. Documenting Results.

- a. FBI and FDLE criminal history results. Documentation of receipt and action taken based on the criminal history check will be documented in the Clearinghouse under the criminal history tab.
- b. Out-of-State criminal history results.
 - 1) Documentation of receipt and action taken based on the out-of-state criminal history check will be documented in the Clearinghouse under the criminal history tab.
 - 2) If the results of out-of-state requests are not received within 45-business days after the request was sent, background screening staff will determine the applicant "Not-Eligible" in the Clearinghouse for DCF Child Care. If results are received within 90-days from the date of screening, background screening unit will review the results to determine continued eligibility to work in child care.
- c. Out-of-State Abuse and Neglect Registry Results.

- 1) Documentation of the date the search was requested, and the date the results were received, must be maintained in the employee's file for review by the licensing authority.
- 2) If the Department receives verified findings of abuse or neglect, the report number will be documented in the Clearinghouse on the criminal history tab. Documentation should include search date, report number, date and findings.

12-9. Determining Eligibility. Eligibility determinations by the Department shall be based on Level 2 criteria, including sealed and expunged records, and out-of-state criminal history results. If necessary, the background screening unit may request additional documentation from the applicant such as police reports, arrest or probable cause affidavits, charging documents, final court dispositions, and sworn complaints. If the applicant refuses or does not respond to the request for additional documentation within 30 calendar days of the receipt of the Request to Applicant for additional Information, the applicant will be ineligible for employment pursuant to ss. 435.05(1)(d) and 435.06(3), F.S. Based on the results of the screening and any supplemental information, background screening staff will take the following action and document in the Clearinghouse:

- a. No criminal history – Applicant shall be determined eligible.
- b. No criminal history – with no out-of-state residency in the previous 5 years. Applicant shall be determined eligible.
- c. No criminal history – with pending out-of-state residency in the previous 5 years searches. Once it has been determined that an applicant is clear of any disqualifying offenses (Level 2-Florida Standard – Chapter 435, F.S.), the applicant will be deemed authorized for provisional hire for a period of 45-days while awaiting out-of-state criminal history results.
- d. No disqualifying criminal history – Applicant shall be determined eligible.
- e. No disqualifying criminal history (Level 2 Florida Standard – Chapter 435, F.S.) – with out-of-state residency in the previous 5 years pending. Once it has been determined that an applicant is clear of any disqualifying offenses, the applicant will be deemed authorized for provisional hire for a period of 45-businessdays while awaiting out-of-state criminal history results.
- f. Disqualifying offense(s) eligible for consideration of an exemption – Provided that all criteria included in s. 435.07, F.S., are met, the applicant will be notified that he or she is not eligible and next steps for requesting an exemption.
- g. Disqualifying offense(s) not eligible for exemption – If applicant is found to have a disqualifying offense that is not eligible for an exemption pursuant to s. 435.07, F.S., the applicant will be notified that he or she is not eligible to work in child care and is not eligible for an exemption at the time of review.
- h. If, upon screening, it is determined that an exemption had been previously granted, the exemption will continue only if the disqualifying offense is not a permanent disqualifier under Chapter 435, F.S.

12-10. Confidentiality and Sharing of Screening Information.

- a. All information obtained through the screening process is exempt from public disclosure and may not be used for any reason other than the purpose for which the individual was screened as provided in s. 435.09, F. S. An exception exists under s. 435.10, F.S., for the sharing of personnel information among employers.
- b. Details regarding findings may not be shared with anyone other than the applicant.

- c. FDLE and FBI criminal history record information is restricted to those personnel designated by the Department to perform this function and may be accessed only as allowed by federal and state statutes, regulations and guidelines. The Department has instituted security precautions and standard operating procedures, in compliance with provisions established within User Agreements, pertaining to information access (see CFOP 170-03, Chapter 4 relating to Information Security).
- d. Pursuant to CFOP 170-3, Chapters 1 and 4, a violation of access restrictions may result in termination of the User Agreement and cessation of Department access to FDLE and FBI databases, and may result in fines and penalties being assessed against the Department and/or responsible employees. Personnel found in violation of FDLE and FBI access restrictions will be subject to disciplinary action, which may include, but is not limited to:
 - 1) Oral reprimand;
 - 2) Written reprimand;
 - 3) Suspension from employment;
 - 4) Termination from employment;
 - 5) Legal action; and/or,
 - 6) Criminal liability.

12-11. Records Management.

- a. If a disqualification action is issued and/or additional information and documents were requested by the Background Screening Unit in order for an eligibility determination to be made, a file will be created that will be retained by the Background Screening Unit and will include criminal history results, all correspondence, and any documents submitted by the applicant.
- b. Background screening records used to evaluate criminal history results and determine eligibility for employment or licensure ,shall be retained in the Clearinghouse by the Department for 20 fiscal years. Upon storage of records, this section will be referenced within the records storage request as justification for storage and retention.
- c. The employer/owner/operator must maintain on-site at the program copies/documentation of completion of all applicable elements in the screening process for an individual in the personnel file for review by the licensing authority.

Attachment 1: Definition of Terms

Background Screening Staff – the group of individuals employed by the Department's Background Screening Program. Staff include:

Background Screening Coordinators are responsible for reviewing screenings with criminal history, including exemptions.

Call Center Specialists process calls and emails from providers and applicants to the Department's Background Screening Program via the Background Screening Helpdesk.

Technicians complete abuse history checks in FSFN.

Caretaker – Refers to the individual required to be screened.

A **volunteer** who assists on an intermittent basis for less than 10 hours per month is not considered a caretaker, provided the volunteer is under direct and constant supervision of/by persons who meet Level 2 screening requirements.

In **Child Care Facilities, Nonpublic schools pursuant to s. 402.3025(2) F.S., National Membership Organizations, and Specialized Child Care Facilities for the Care of Mildly Ill Children**, this term includes: owners, operators/directors, employees, and volunteers who serve 10 hours or more per month, but does not include individuals who work in the facility after hours when children are not present or the parents of children in Head Start.

In a **Family Day Care Home or Large Family Child Care Home**, this term includes: operators, substitutes, employees, and every household member over the age of 12.

In **Religious Exempt Child Care Providers**, this term includes: owners, operators/directors, employees, and volunteers who serve 10 hours or more per month, but does not include individuals who work in the facility after hours when children are not present.

In **Summer Camps** (day and 24 hour), this term includes: owners, operators, employees, and volunteers who serve 10 hours or more per month.

In **Child Enrichment Service Providers**, this term includes: directors, owners, employees, and volunteers who serve 10 hours or more per month.

Care Provider Background Screening Clearinghouse (Clearinghouse) – The purpose of the Clearinghouse is to provide a single data source for background screening results of persons required to be screened by law for employment in positions that provide services to children, the elderly, and disabled individuals. The Clearinghouse allows criminal history results to be shared among specified agencies when a person has applied to volunteer, be employed, be licensed, or enter into a contract that requires a state and national fingerprint-based criminal history check. (Section 435.12 F.S.)

Caretaker Screening Information System (CSIS) – CSIS is a statewide computer program utilized by the Department's Background Screening Program and other background screening entities within the Department to track screenings for persons required to be screened pursuant to Chapter 435, F.S. Only results received by the Background Screening Program are entered into the system.

Expunged Record – Any criminal record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to s. 943.0585, F.S., is physically destroyed or obliterated by any criminal justice agency having custody of such record and is not available to any person or entity except upon order of a court of competent jurisdiction.

A person who is the subject of an expunged criminal record may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except in certain circumstances including seeking employment or licensing by or to contract with the DCF in a position having

direct contact with children or the developmentally disabled, as outlined in s. 943.0585(4)(a)5., F.S.

FSFN (Florida Safe Families Network) – is the state’s official case file record for each investigation and case, and is the official record for all homes and facilities licensed by the state or approved for adoption placement. All pertinent information about every intake, investigation and case management function must be entered into FSFN, including the Child’s Resource Record. The FSFN electronic case file is the primary record for each investigation, case and placement provider. Please reference ss.39.001 (13) and 30.001 (134), Florida Administrative Code.

Initial Screening – The first screening completed as an act of original employment and/or hiring, and/or licensing or contracting, initiated prior to starting employment or prior to licensure/contracting or following a 90-day break in employment from a position for which an individual acquired an initial screening.

Licensing Entity – The government entity responsible for issuance of a license.

Licensing Agency – The entity, government or non-government, responsible for training prospective licensees and submitting all necessary documentation to the Licensing Entity or Regulatory Authority.

Live Scan – The electronic submission of fingerprints to FDLE for acquisition of state and national criminal history information/checks.

Local Licensing Agency – A county whose licensing standards meet or exceed state minimum standards and has been designated as a local licensing agency to license child care facilities and homes in the county.

National Results – Criminal history from all states and territories retained by the Federal Bureau of Investigation (FBI) and/or other state repositories.

OCA – Originating Case Agency on a Live Scan submission is the identification number issued by the Background Screening Program through the CSIS program. It is the key to identifying the provider/agency requesting the background screening or for whom the background screening is being completed. This is a unique number generated by the CSIS system or converted from a legacy system. For Live Scan submissions, the OCA is prefaced with the two-digit district number and ends with a “Z” (e.g. 03011234Z). This differs from an ORI, which is assigned to qualified governmental entities by the FBI.

ORI – Originating Agency Identifier is a unique identifier assigned to qualified governmental entities by the FBI for submission and processing of fingerprint results. Clearinghouse ORIs are as follows:

DCF General: EDCFGN10Z

DCF Mental Health: EDCFMH20Z

DCF Summer Camp: DCFSC30Z

Regulatory Authority – The government entity responsible for oversight of a service provider.

Re-Screening – For continued employment, licensure, or contracted status, each individual is required to be re-screened at 5-year intervals following the completion of his or her initial screening. The re-screening shall include Level 2 fingerprint screening.

Sealed Record – Any criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to s. 943.059, F.S., is confidential and exempt from provisions of s. 119.07(1), F.S. and s. 24(a), Constitution of the State of Florida, and is available only to the person who is the subject of the record, to the subject’s attorney, to criminal justice agencies for criminal justice purposes, or to those entities set forth in s. 943.059(4)(a)5., F.S., for their respective licensing and employment purposes.

A person who is the subject of a sealed criminal record may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except in certain circumstance including seeking employment or licensing by or to contract with the Department of Children and Families in a position having direct contact with children or the developmentally disabled, as outlined in s. 943.059(4)(a)5., F.S.

Voluntary Pre-Kindergarten – A pre-kindergarten program established by the 2005 Legislature with special funding for providers and available to all children within the state who will attain the age of 4 on or before September 1 of the school year, allowing them to attend either a private or public pre-kindergarten program. This group includes individuals already required to be screened as employees working in programs in private schools with children under the age of 5, facilities exempt from licensure, and licensed childcare centers.