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Agency of Human Services

Memo

To: Public School Operated PreK Providers, Superintendents,
Principals and Early Childhood Education Coordinators

From: Ken Schatz, Commissioner 
Reeva Murphy, Deputy Commissioner, Child Development
Division 

CC: Rebecca Holcombe, Secretary of Education
Al Gobeille, Secretary of Human Services

Re: Regulatory Guidance for CDD Background Checks for Public
School Operated PreK Programs

Date: June 23, 2017

Please see the attached guidance providing information about the Child Development Division's background check process and requirements for individuals in public school operated preK programs.

Thank you.

The following table is provided as a summary of the CDD background check requirements. It may be helpful to refer back to this table as you are reviewing the regulatory guidance.

Category of “Associated Party” in a Public School-Based PreK Program	CDD Record Check Authorization Form Required	CDD Fingerprint Supported Criminal Background Check Required	No CDD Background Check
PreK program “staff” person – employed by the school/supervisory union (SU); primary responsibility is care or education of preK children ★ may be left alone with children ★ may be counted in ratio	X	X	
PreK program “auxiliary staff” person – employed by the school/SU; performs some element of direct care or education of preK children, but primary responsibilities in school are not limited to preK children ★ may not be left alone with children ★ may not be counted in ratio	X	X	
PreK program “partner staff” person – works with preK children, but is employed by another SU or entity ★ may not be left alone with children ★ may not count in ratio	X		
Non-parent “volunteers” – present more than 5 times per year in the preK program ★ may not be left alone with children ★ may not count in ratio	X		
Business managers – employed by the school/SU and has direct responsibility for the financial management of the preK program; does not also serve as a “staff” or “auxiliary staff” person in the preK program ★ may not be left alone with children ★ may not count in ratio	X		
NOT a CDD “associated party” - other public school staff employed by the school/SU who do not work with preK children/do not have responsibilities in the preK program, and who may be present in common areas of the school (** may not be left alone with preK children or counted in preK ratio) Examples include: ★ teachers in other grades ★ cafeteria cooks ★ janitorial staff			X
NOT a CDD “associated party” – parent volunteers in preK program ★ may not be left alone with children (other than their own) ★ may not count in ratio			X

CDD Background Checks
Information for PreK Programs Operated by Public Schools

The Child Development Division (CDD) is providing this guidance document for public-school based preK programs to provide information and clarification around the CDD background check requirements for individuals working or present in public school operated preK programs. For more general information about preK program background check requirements and changes in Vermont law made by Act 49 (2016), please see the DCF memorandum dated June 23, 2017.

The CDD licensing regulations guide determinations around which individuals are required to have fingerprinting and background checks in childcare programs, including public school based preK programs. Please see the CDD *Child Care Licensing Regulations for Center Based and Preschool Programs* (CBCCPP Rules) at http://dcf.vermont.gov/sites/dcf/files/CDD/Docs/Licensing/CBCCPP_Regulations_FINAL.pdf

Earlier this year, CDD began working on an individual basis with schools to identify and clear existing staff in public preK programs through the new fingerprinting requirements. Since mid-March of this year, all new staff hired in any licensed program have been required to submit fingerprint supported background checks. At the end of this document is a frequently asked question section along with responses.

CDD understands that schools and individuals working in schools may have some questions about the CBCCPP licensing regulations. CDD is soliciting questions and input through its website at <http://dcf.vermont.gov/cdd/laws-regs>. In addition, CDD is committed to working with schools to understand concerns and answer questions and is planning to schedule a meeting to solicit feedback on these regulations and how they are impacting schools and individuals working in school based programs.

This regulatory guidance makes numerous references to “ratio”. Ratio refers to the ratio of staff to children for various age groups. A typical ratio for preK programs for children ages 36 months to kindergarten age is a maximum group size of 20 and a staff to child ratio of 1:10. Please see heading 6.2 of CBCCPP licensing regulations for more detailed information and requirements.

CDD Background Check Process Summary

For each preK program licensed by CDD, the program has a named “licensee”, which is the person, corporation or other legal entity named on the license that is responsible for the operation of the program and for compliance with the CBCCPP licensing regulations. The CBCCPP licensing regulations provide in CBCCPP Rule 3.1.1.2 that schools, as municipal organizations, must also designate an individual as its licensee representative.

The licensee representative for each school preK program has the obligation to notify CDD of all individuals associated with the preK program. CDD refers to these individuals as “associated parties”. Schools should keep their associated parties lists up-to-date with CDD through the Bright Futures Information System (BFIS) www.brightfutures.dcf.state.vt.us/. Schools should update BFIS within 5 (five) working days of any changes in staffing/associated parties in the preK program (CBCCPP Rule 3.4.7.5).

The licensee representative must ensure that all associated parties submit a completed and signed CDD Record Check Authorization Form to CDD no later than the first day of employment or presence at the program. The CDD Record Check Authorization Form may be found at <http://dcf.vermont.gov/cdd/forms-child-care-providers> (please use the link provided to ensure that you are using the most up to date form). The CDD Record Check Authorization Form authorizes CDD to check in-state abuse registries as well as in-state criminal histories. CDD uses the information provided on the Record Check Authorization Form, such as the role the individual plays in the program, to determine whether the national FBI fingerprint supported clearance is required in addition to the in-state abuse registry checks and in-state criminal background checks completed by CDD. All staff members of the preK program (program “staff” and “auxiliary staff”) are required to have the CDD national FBI fingerprint-supported background check. Non-parent volunteers, partner staff and business managers are required to have the in-state checks, but do not require fingerprinting (please see the table and FAQs section below for more detailed information).

After receiving a completed and signed CDD Record Check Authorization Form, CDD checks various databases, which include:

- Vermont Child Protection Registry,
- Vermont Adult Abuse Registry,
- National Sex Offender Registry, and
- in-state Vermont criminal record histories

Once the in-state and National Sex Offender Registry checks are complete and no disqualifying information is found, CDD sends to the licensee and the individual a preliminary approval letter along with a Fingerprint Authorization Certificate (FAC), which is used to obtain national FBI fingerprint-supported criminal record check information. It is the employee’s responsibility to complete the FAC and submit to fingerprinting at one of the many designated law enforcement locations throughout the state (fingerprinting location information is provided along with the FAC).

Please note that no staff person may be left alone with children until the individual has successfully completed a CDD fingerprint-supported background check (CBCCPP Rule 7.2.4). Please see the table and FAQs below for more information about which staff persons may be left alone with children and counted in ratio.



After CDD receives fingerprint supported criminal record check information, processes all record check results and finds no disqualifying information, CDD sends a final approval letter to the licensee and the individual. If CDD receives disqualifying conviction or record check information, the licensee is notified that the individual is prohibited from the program. CDD also sends a separate letter to the individual, which includes specific information relating to the disqualifying criteria and process by which the individual may challenge the completeness or accuracy of the findings. Please see heading 7.2 of the CBCCPP licensing regulations for a complete list of CDD disqualifying criteria as well as other information about CDD background checks.

Please feel free to reach out to the CDD Licensor on Duty line (800) 649-2642 option 3 for specific questions about your program. For specific questions stemming from a background check letter received from CDD, please feel free to contact the author of the letter.

CDD Frequently Asked Questions – Public School Operated PreK Programs

1. Who are staff “employed by” the preK program that require fingerprinting?

Answer: Staff “employed by” the preK program include all “staff” and “auxiliary staff” who are employed by the school, or supervisory union, who are dedicated or directly associated with the preK or who regularly work in the preK or regularly work with the preK students. Please see the definitions of “staff” and “auxiliary staff” in heading 2.2 of the CBCCPP licensing regulations as well as the table.

2. What is the difference between “staff” and “auxiliary staff”?

Answer: Please see heading 2.2 of the CBCCPP licensing regulations for more detailed information as well as the table above. The short answer is that “staff” includes all individuals employed by or working as a substitute in the preK program as a program director, teacher, teacher associate, teacher assistant, trainee, classroom aide or seasonal staff member. Staff members may be counted in ratio and working with children as soon as a CDD Record Check Authorization Form has been sent to CDD. Once the fingerprint supported background check clearance has been successfully completed and processed by CDD, staff members may be left alone with children in addition to counting in ratio.

“Auxiliary staff” are individuals employed by the school or supervisory union and who may perform some element of care or education of preK children, but whose primary responsibilities are not limited to working with preK children. Auxiliary staff members are not counted in ratio and cannot be left alone with children, but do need to pass a fingerprint-supported background check. An example of an “auxiliary staff” person includes a music teacher providing instruction to preK children, but who is not left alone with the preK children and is not counted in ratio by the program.

Whether to use an individual as a “staff” or an “auxiliary staff” person is at the discretion of the school and this decision impacts the role of the individual in the program, whether the individual can be left alone with children and/or counted in ratio. For example, schools that want to be able to leave music teachers alone with preK children and let the music teacher count in ratio have the option of identifying the music teacher as a “staff” person rather than an “auxiliary staff” person. In addition, there are other licensing considerations that schools should consider when making the decision about whether an individual performs in the role of “staff” or “auxiliary staff” such as general staffing requirements (ex. First Aid and CPR certification is required for “staff”), qualifications of the individual, personnel file requirements and professional development requirements. Schools may contact the Licensor on Duty line (800) 649-2642 option 3 to discuss these different considerations.

As noted in the table, CDD does not consider all staff and teachers in a public school to be considered as “auxiliary staff”. For example, staff that work in other classrooms or may be present in common areas such as the cafeteria or playground and do not work with or have responsibilities with the preK program (examples include but are not limited to teachers for other grades, cooks and janitorial staff) are not within the purview of the CDD background check responsibilities; and, CDD does not accept CDD Record Check Authorization Forms for these individuals.

3. What about staff in the school such as special educators, music, art or PE teachers who work with preK students? Do they need to get fingerprinted by CDD?

Answer: Again, it is important to contact CDD if you have any questions about CDD background check requirements. As discussed in question #2, schools have varying approaches as to how they staff their preK programs and provide services and instruction to preK students. For special educators, music, art, PE teachers providing instruction to preK students, schools have the option of categorizing these professionals as either “staff” or “auxiliary staff”. This designation has different implications with regard to whether the educator may be left alone with children and count in ratio. There are also other licensing considerations resulting from these different designations. However, please note that both “staff” and “auxiliary staff” are required to have CDD fingerprint supported background checks.

Schools that have special education, music, art or PE teachers providing instruction to preK students but do not have the special educator, music, art or PE teacher count in ratio and do not allow these teachers to be left alone with preK students should ensure that these teachers have submitted a CDD Record Check Authorization Form to CDD with “auxiliary staff” noted. CDD will process the background check clearance, which includes the fingerprint supported component.

Schools that want to utilize these individuals to count in ratio and be left alone with preK students should ensure that these educators have submitted a CDD Record Check Authorization Form to CDD with the “staff” person designation noted (teacher, teacher associate, teacher assistant, etc.). These educators must successfully pass the CDD fingerprint supported background check clearance before they may be left alone with children.

4. Do volunteers working in the preK need to be fingerprinted by CDD?

Answer: Volunteers, not including parent volunteers, who are present more than five times per year in the preK must complete the CDD Record Check Authorization Form and have the abuse registry checks and the Vermont criminal history information check. Volunteers may not be left alone with children and may not be counted in ratio and so do not require the fingerprint-supported national FBI criminal record check. Program licensees must ensure that before volunteers begin working in the program that the CDD Record Check Authorization Form has been submitted to CDD. Parent volunteers are not required to have CDD background checks. Like other volunteers, parent volunteers may not be left alone with children (other than their own) and may not count in ratio.

5. What about partner staff who provide services to preK students in public preKs?

Answer: By definition in the CBCCPP licensing regulations, partner staff cannot be left alone with children or counted in ratios. Staff of one supervisory union would be defined as partner staff when working in a different supervisory union’s public school-based preK program. Like non-parent volunteers, partner staff must complete the CDD Record Check Authorization Form and have the abuse registries and Vermont criminal history checks, but are not required to have the national FBI fingerprint-supported check.

CDD recognizes that some supervisory unions have contractual relationships with other supervisory unions that may include sharing staff. The preK teacher employed by another supervisory union is a partner staff when working in the preK program licensed by a different supervisory union. To be defined as “staff” and able to work alone with children and/or count in ratio, CDD asks that the licensee of the program (in which the teacher will work) request a variance to the definition of “staff” member (CBCCPP Rule 2.2.52) for this individual. Upon approval of the variance, the partner staff member may be treated as a staff member in the requesting school program and may work unsupervised with children and/or counted in ratio once the individual has successfully completed a fingerprint supported background check. In addition, all CBCCPP licensing regulations that apply to “staff” will also apply in this scenario (e.g. staff file requirements).

6. Are business managers required to complete the fingerprint supported background check clearance?

Answer: **Please note that schools are not required to identify a separate business manager if the school preK Program Director has completed a three (3) college credit course in managing an early care and education program that includes budgeting and financial management (CBCCPP Rule 7.3.1.5). In most instances, the school’s principal meets director qualifications and has completed the required three credit course and may be named as the Program Director.**

For schools who choose to identify a business manager in addition to a Program Director, the Business Manager is required to submit a Record Check Authorization form to CDD and complete the abuse registries and in-state criminal history check. With the exception noted below, business managers are not required to have CDD fingerprint supported background checks. Business managers cannot be left alone with preK children or count in ratio in the preK program. Please see the table.

Business managers who also serve in the role of “staff” or “auxiliary staff” in the preK program are required to have CDD fingerprint supported background checks and follow CBCCPP licensing regulations applicable to “staff” or “auxiliary staff” persons in preK programs (example includes a Business Manager who also works as a substitute teacher in the preK).

7. How often will CDD fingerprinting/background checks need to be repeated? How will schools know whose fingerprints need to be updated?

Answer: All background check clearances are required to be repeated every five (5) years. Please note that CDD may use the results of a background check on file with CDD as long as it has been completed within the previous five years instead of requiring a new background check.

Each year, sixty days prior to the program's license expiration date, the program receives a BFIS automated Annual Requirement Letter that identifies each person on the Associated Parties list due for a new background check clearance review during the next year. When the program submits the new Record Check Authorization form for the required individuals, CDD will issue the FAC for those in which fingerprinting is required.

8. Who is responsible for the cost of fingerprinting for my employees?

Answer: CDD pays the fee for Vermont Crime Information Center to process and generate the results of the fingerprint background clearance. The fee charged by local fingerprinting agents costs approximately \$25 and may either be paid by the person submitting to the fingerprinting and/or by the person's employer.

9. How can I provide feedback about the CDD background check process and how it impacts my school?

Answer: CDD received very little feedback from schools during its rulemaking process. These regulations were just adopted last fall and schools are beginning to understand the impact of some of these regulations on their school-based programs. CDD is soliciting questions and input through its website at <http://dcf.vermont.gov/cdd/laws-regs>. In addition, CDD is committed to working with schools to understand concerns and to answer questions. CDD will work with the associations representing schools, superintendents, school boards, principals, educators and special educators to schedule a meeting to solicit feedback on these regulations and how they are impacting schools and individuals working in school based programs.

