



Wisconsin Department of Children and Families
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Wisconsin Department of Public Instruction
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To: **Child Care Providers and Collaborating Partners**

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RE: DCF and DPI Background Check Requirements

The Department of Children and Families (DCF) and the Department of Public Instruction (DPI) have received many questions surrounding how background check requirements for regulated child care and the new Head Start Program Performance Standards impact collaboration between child care providers, Head Start programs, public schools and special education (and other support services) for children. The following memo has been prepared by DCF and DPI to help answer these questions and ensure children continue to receive quality care and support in the state of Wisconsin.

DCF AND DPI BACKGROUND CHECK REQUIREMENTS

It is important to note that both DCF and DPI have different background check requirements, and these requirements are monitored separately by their respective agencies. All child care providers, educators, and school programs must comply with all requirements of any agencies they are regulated by. This means it is possible that individuals may need two separate background checks, depending on what requirements apply to them. In-depth information about each departments' background check requirements can be found at the websites linked in the "Resources" section of this memo.

DCF AND HEAD START BACKGROUND CHECKS

On October 1, 2018 background check requirements for certified and licensed child care programs changed. Per Wisconsin Statute 48.686 (<https://docs.legis.wisconsin.gov/statutes/statutes/48/XVI/686>), all *caregivers* and *noncaregiver employees* must now obtain eligibility to work in a child care setting through a DCF run, fingerprint-based FBI background check. The definitions for *caregiver* and *noncaregiver employee* are in Wisconsin Statute 48.686 and also located at <https://dcf.wisconsin.gov/ccregulation/background-check>.

On September 30, 2019 Head Start Program Performance Standards also changed. The new Code of Federal Regulations 45 § 1302.90 (<https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/hspps-final.pdf>) requires anyone employed either directly or through contract with a Head Start program to undergo a fingerprint background check at either the state, tribal or federal level before they may be employed by the Head Start program. It also requires that within 90 days of starting the individual must undergo a State or tribal and a federal FBI fingerprint-based background check, as well as checks of the sex

offender registry and a child abuse and neglect registry. These standards allow a more intensive background check to be performed by a state agency to take the place of these requirements. It is important to note that because of both sets of requirements, Head Start programs that are either licensed/monitored by DCF or have joined YoungStar, may use DCF background checks to meet the requirements for Head Start Program Performance Standards.

4K COLLABORATIONS WITH CHILD CARE PROVIDERS

4K collaborations have always been required to meet and follow licensing rules at any child care location that is regulated by DCF. These rules include the new background check requirements. If a 4K teacher (or sub) is employed by the child care provider, a background check is required as they are considered a caregiver. If the 4K teacher is district-employed, they need a background check unless they meet ALL of the following criteria:

- Contract and/or center policies specify that district-employed teachers are not to have unsupervised access to children in the center (unsupervised access is the ability to move freely through the premises and the opportunity to interact with children in care).
- District-employed teachers are not used to meet staff-to-child ratios in accordance with requirements under DCF 251.
- District-employed teachers work under the supervision of an individual who has completed a DCF background check and received a final eligibility letter from the department notifying them they have passed their background check.

The intent of this requirement is to ensure 4K teachers and substitute teachers in a child care setting have a DCF run background check, unless the school district is only renting space from the child care provider and not collaborating by sharing staff or students between the two programs (4K and the licensed child care).

SPECIAL EDUCATION AND SUPPORT SERVICES

While DCF and DPI appreciate child care and Head Start programs following their requirements strictly, we also want to be sure that children have access to necessary support and therapeutic services. To determine if an individual providing these services needs a background check, DCF looks at the following considerations:

- Who is providing the service?
- Who is the service agreement or contract with?
- How is the service being provided?

If the service is being provided by a school district or independent group, and the service agreement or contract is with the parent, the child, and a third party (school district, therapy service, coaching service) then the individual needs the DPI required background check, but not the DCF run background check. This agreement would also include an Individual Education Program or Alternate Release Form that allows the child care to release the child receiving services into the care of said service. However, if the individual providing support services is contracted or employed by the child care provider, they will be required to undergo the DCF run background check.

A special education or support service provider does not require a DCF run background check if all of the following is true:

- The service agreement is between the child, parent, and third-party service provider.
- The parents have provided an Individual Education Program or Alternate Release Form that allows the child to be released into the care of the coach or teacher coming to provide that service to the child.
- The child care provider tracks through an attendance sheet when the child is removed and returned to care.
- If the individual is providing a form of support or therapy that requires the out-of-care child to interact with a group of children who are in care of the child care provider, that individual must be supervised by an employee of the child care provider who has passed a background check and received a positive final eligibility determination.

DEFINITIONS OF SUPERVISION

Because different groups use the word “supervision” differently. DCF and DPI want to clarify what the word means in different situations.

DCF Run Background Check Supervision for Individuals Without Preliminary Eligibility

When the word “supervision” is used in the context of DCF run background checks for someone without any eligibility determination, it means that the individual being supervised is always within direct sight and sound of an individual who has received a positive final eligibility determination from DCF.

DCF Run Background Check Supervision for Individuals with Preliminary Eligibility

Individuals who have obtained preliminary eligibility, but not final eligibility, must also be supervised until they receive a positive final eligibility determination. For these individuals, supervision is defined as “periodic direct observation” by an individual who has a positive final eligibility determination from DCF.

Children in DCF Regulated Child Care

A child in DCF regulated group child care is under supervision if they are within direct sight and sound of a teacher who is being used to meet child-to-teacher ratio. This individual can only provide supervision if they meet the qualifications specified in DCF licensing rules.

RESOURCES

DCF Background Check Information and Requirements: <https://dcf.wisconsin.gov/ccbgcheck>

DPI Background Check Information and Requirements: <https://dpi.wi.gov/tepd/licensing/background>

Head Start Program Performance Standards: <https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/hspss-final.pdf>