



# State and Territory CCDF Administrators Meeting 2018

August 7–9, 2018

Crystal Gateway Marriott • Arlington, VA



## Interstate Background Checks

# Today's Session

Discuss challenges, practices and emerging solutions for interstate background checks

1. National overview/update
2. Polling questions on the landscape
3. Facilitated table discussions by region



# Who Needs a Background Check?

## A “child care provider” means:

A center-based child care provider, family child care provider, or another provider of child care services for compensation on a regular basis that:

- is not related to all the children served; and
- is licensed, regulated, or registered under State law or receives CCDF funds.

45 CFR 98.43(a)(2)(i)

## A “child care staff member” means:

An individual (other than an individual who is related to all children for whom child care services are provided):

- who is employed by a child care providers for compensation; or
- whose activities involve the care or supervision of children for a child care provider or unsupervised access to children; or
- ***any individual residing in a family child care home age 18 and older.***

45 CFR 98.43(a)(2)(ii)

# Components of a Criminal Background Check

The Final Rule defines a comprehensive background check to include:

- An FBI fingerprint check using Next Generation Identification
- A search of the National Crime Information Center's National Sex Offender Registry
- A search of the following registries in the State where the staff member resides and each State where the staff member resided during the past 5 years:
  - State criminal repository (with fingerprints required in the State of residence);
  - State sex offender registry; and
  - State-based child abuse and neglect registry or database.

[45 CFR 98.43(b)]

# Implementation Deadlines for Background Checks

- States were originally required to implement these requirements by September 30, 2017
- All States applied for and received an extension through September 30, 2018 based on their good faith effort to implement
- States still need additional time due to the unprecedented nature of this work—particularly to implement the interstate checks and clear the backlog of existing staff

# Time-Limited Waivers/Extensions

- States have the opportunity to request additional time-limited waivers of up to two years, in one year increments (i.e., potentially through September 30, 2020)
- To receive these time-limited waivers, States must meet milestones by ensuring they have requirements in place for a portion of the components (FBI fingerprint and three in-state checks), and that they are conducting checks for new staff on those components

# Interstate Challenges

- Variation in State laws and practices
  - Types of information maintained in registries, e.g., child abuse and neglect registries
  - Points of contact, fees, forms, etc.
  - Disqualifying crimes beyond the CCDF disqualifiers
- Inability to share information with other States (e.g., closed record States, lack of legal authority to check non-residents)
- Reliance on manual processes due to the lack of a national automated network for interstate communication

# Supporting State Implementation of Interstate Checks

- In 2017, OCC worked with a number of States on developing a National Interstate Background Check Clearinghouse to facilitate interstate checks
- This effort was put on hold in part because of challenges with using a non-criminal justice network to exchange criminal justice information

# Supporting State Implementation of Interstate Checks, Cont.

- OCC is now exploring existing interstate networks used for criminal justice and child welfare purposes—to see if they can potentially be used for child care background checks
- Our efforts generally fall into two categories:
  - (1) criminal and sex offender records
  - (2) child abuse and neglect records

# Supporting State Implementation of Interstate Checks, Cont.

- OPRE is launching a contract funded with CCDF research dollars to understand the state of the field and identify promising solutions to the implementation of interstate background checks

# Benefits of State Participation in the National Fingerprint File (NFF) Program

- Participation in the NFF eases administrative burden since it is unnecessary to conduct both an FBI fingerprint check and a search of an NFF State's criminal history record repository
- An FBI fingerprint check satisfies the requirement to perform an interstate check of another State's criminal history record repository if the responding State participates in the NFF program

# Resources

- OCC Webpage on Background Checks (including State contact list) [acf.hhs.gov/occ/resource/cbc-requirement-resources](https://www.acf.hhs.gov/occ/resource/cbc-requirement-resources)
- Technical Assistance from the National Center on Child Care Subsidy Innovation and Accountability
- Workshop here at STAM on *Promising Approaches for In-State Criminal Background Check CCDF Compliance*

# Polling Questions

Only *one* response per State please

# Polling Questions

What agency reviews Child Abuse and Neglect (CAN) Registry data in your State and makes the final determination?

- A. Child Welfare
- B. CCDF Agency
- C. Child Care Licensing Agency
- D. Criminal Justice/ Law Enforcement Agency or
- E. Other

# Polling Questions

What agency reviews the Sex Offender Registry (SOR) data in your State and makes the final determination?

- A. CCDF Agency
- B. Child Care Licensing Agency
- C. Criminal Justice/ Law Enforcement Agency
- D. Other

# Polling Questions

What agency reviews the (instate) Criminal Background check data and makes the final determination on eligibility?

- A. CCDF Agency
- B. Child Care Licensing Agency
- C. Criminal Justice/ Law Enforcement Agency
- D. Other

# Polling Questions

Is your state a closed record state?

A. Yes

B. No

C. I don't know

# Polling Questions

Does your state law and rule/policy provide authority for you to conduct checks of individuals that live in another state?

A. Yes

B. No

C. I don't know

# Polling Questions

What agency communicates with other States regarding your request for interstate information?

- A. CCDF Agency
- B. Child Care Licensing Agency
- C. Criminal Justice/ Law Enforcement Agency
- D. Other
- E. I don't know

# Polling Questions

When responding to interstate requests, do you make a red light/ green light determination?

A. Yes

B. No

# Polling Questions

When responding to interstate requests.

A. Do you share criminal history with the requesting state? \_\_\_ Yes \_\_\_ No \_\_\_ Other

B. Do you share Child Abuse and Neglect information with the requesting state? \_\_\_ Yes \_\_\_ No \_\_\_ Other

C. Do you share Sex Offender Registry information with the requesting states? \_\_\_ Yes \_\_\_ No \_\_\_ Other

# Table Discussions

1. What has been your experience when requesting interstate checks from other states in your region?
2. What barriers do you face when responding to interstate requests from other states?
3. What can be done to improve the process when a state gives red light/ green light results? For example, would it be helpful if the responding state gave 2 sets of responses?
  - a. Red light/ Green light for CCDF disqualifiers
  - And
  - b. Red light/ Green light for any additional state disqualifiers
4. If your State does not currently participate in the National Fingerprint File program, have you been involved in any discussions about the possibility of joining? If so, what is your experience regarding challenges to joining?
5. Would/Does your state forward to other states Rapback information found after an initial interstate background check?