

BACKGROUND CHECKS FOR LICENSED CHILD DAY CENTERS

22 VAC 15-51-50. Explaining requirements for satisfactory background checks.

A. The department must require documentation of satisfactory background checks for applicants, agents, employees, and volunteers. Background checks information must be made available to department representatives upon request. A satisfactory sworn statement or affirmation is a fully completed original that states that:

1. The person does not have a criminal conviction that is a barrier crime or is any felony conviction within the last five years;
2. The person is not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and
3. There is no other knowledge that the individual has an unsatisfactory background. Criminal convictions include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

Convictions also include convictions in other states that are equivalent to the barrier crimes set out in this regulation.

A satisfactory central registry finding is one in which:

1. A copy of the department's child protective services check form is returned to the center indicating that, as of the date on the reply, the individual whose name was searched is not identified in the Central Registry of Founded Child Abuse/Neglect Investigations as an involved caregiver with a founded disposition of child abuse/neglect, and
2. There is no other knowledge that the individual has a founded disposition in Virginia or elsewhere.

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A satisfactory criminal history record check report is one in which:

1. An original hard copy or Internet inquiry reply from the Department of State Police is returned to the center with no convictions indicated, or convictions indicated, but no barrier crimes or other felony convictions in the last five years, and
2. There is no other knowledge that the individual has a barrier crime, or other felony conviction in the past five years, in Virginia or elsewhere.
3. A child day center may hire for compensated employment a person who has been convicted of not more than one misdemeanor of assault and battery, as defined in § 18.2-57 of the Code of Virginia, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a day care center or the object of the offense was a minor.

B. Background checks results are not open-ended.

1. If a person leaves a center and the criminal history record report or central registry check finding is less than 91 days old, the person must be permitted to take the report or reports with him.
2. The center must keep a copy of any report a person takes and write on it that it is a copy, and that the original of any criminal history record report was verified.
3. Unless there is a criminal conviction or a founded complaint of child abuse and neglect during that period, a background check remains valid at a center if no more than 12 consecutive months have passed from when a person:
 - a. Began a leave of absence from that center;

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- b. Was terminated from employment at that center; or
 - c. Was transferred to a center owned and operated by the same employer or entity.
4. If there is reason to suspect that a person who has submitted acceptable background checks, as required by this regulation, has a disqualifying background, the center or the department may require new background checks relevant to this suspicion.
5. When the center or the department chooses to require a new background check, the center or the department:
- a. May allow the person to continue the same relationship with the center until the center or the department receives the new Virginia background check information or equivalent documentation from another state, or
 - b. Must require that the person not be alone with children, even if the documentation is not Virginia background check information or equivalent information from another state.
- C. Waivers of some criminal convictions are possible. Refer to 22 VAC 40-191-90 through 22 VAC 40-191-130 of Background Checks for Child Welfare Agencies for an explanation of the waiver.