

MINUTES
BACKGROUND CHECKS COMMITTEE
CHILD DAY-CARE COUNCIL
APRIL 17, 2003

Present: Norman Crumpton, Committee Chair; Elizabeth Dowdy; Dona Huang; Gail Johnson, Council Chair; Carol Steele
Absent: Sondra Freeman
Staff: Wenda Singer

Call to Order

Mr. Crumpton called the meeting to order at 10:40 a.m. He reminded Committee members that the Council had adopted a proposed regulation several months ago, but that at the March 2003 Council meeting Department staff recommended considering a different document. At that meeting, Council members approved revising the previously approved document to reflect the format used for the background checks regulation approved by State Board. He stated that the purpose of the current meeting was to decide whether to recommend:

- Moving forward with the proposed regulation previously adopted;
- Adopting the proposed regulation document prepared by Department staff to reflect the State Board-approved proposed regulation; or
- Adopting a proposed regulation that merges the two above-referenced documents.

He distributed communication from three parties requesting that the previously adopted document be approved. His suggestion, agreed to by Committee members, was to consider both proposed regulation documents and accept as much of the Department staff-prepared document as they could live with. Before proceeding, he referenced the independent work of Liz Dowdy and recommended that the Committee use her comments as the basis for reviewing the staff-prepared document. Committee members agreed to this procedure and spent the rest of the meeting reviewing the document. Changes are highlighted below:

Format

- agreement with the section headings in the document

22 VAC 15-51-10 Defining words and phrases

- delete “child day program” and replace with “center”
- define “center” as “licensed child day center” and use “center” throughout the document
- change “volunteer” to “staff volunteer” and use “staff volunteer” throughout the document
- change “applicant” to allow one person to represent a partnership and obtain background checks

- list the barrier crimes as they appear in the *Code*, as opposed to chronological order as found in Title 18.2
- add a definition of “licensee”
- delete “having access to child and client-related records or to center personnel records” from the definition of “involved in the day-to-day operation”
- delete the definition of “offense”
- add “staff” to “volunteer” and use “staff volunteer” throughout the document
- delete from “sworn statement or affirmation” the reference to a false statement being a Class 1 misdemeanor, and move to 22 VAC 15-51-60.B

22 VAC 15-51-20 Describing background checks

- retain the first four lines and delete text describing sworn statement or affirmation, criminal history record check, and central registry check
- include the deleted information as part of a cover sheet when the regulation is disseminated

22 VAC 15-51-30 Identifying who isn't covered by this regulation

- delete “B,” “C,” and “D”: all explanation of where to find background check requirements for certified preschools or nursery schools; children’s residential facilities; and child day centers or family day homes that are not licensed, registered, approved, or exempt from licensure and receive federal, state or local child care funds

22 VAC 15-51-40 Identifying who is covered by this regulation

- merge initial requirements for applicants and agents into the same row of the table
- add an exception that “persons who have had background checks by the center are not required to obtain new checks when the initial application is due to a change in site location or the entity opening a new site location”
- delete from this section that “background checks remain valid at the center if no more than 12 consecutive months have passed from when a person began a leave of absence from that center, was terminated from employment at that center, or was transferred to a center owned and operated by the same employer or entity unless there is a conviction or founded complaint of child abuse and neglect during that period”
- switch the third and fourth rows of the second table
- write out “six” at “B.3.c”

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

- delete the last paragraph of A

- change the formatting of “B.4”
- replace the list of disqualifying background at “B.3” with the term “disqualifying background”
- re-format requirements for “satisfactory sworn statement or affirmation,” “satisfactory central registry finding,” and “satisfactory criminal history record check report” so they are easier to reference

22 VAC 15-51-60 Explaining consequences of unsatisfactory background checks results

- insert the information, previously in the definition of sworn statement or affirmation, that making a false statement regarding any offense is a Class 1 misdemeanor
- add the phrase “no violation shall occur” to “D” to ensure that there will not be a citation if the request for a criminal history record check or search of the central registry was submitted within seven calendar days but was not returned within 30 calendar days

22 VAC 15-51-70 Keeping background checks records

- change “records” to “reports and findings” at “A” and “A.1”
- verify that the document requires that background checks information must be made available to Department representatives upon request [Staff Response: 22 VAC 15-51-50 provides that “the Department must require documentation of satisfactory background checks.” Is this sufficient verification? Staff note – a sentence was subsequently added at the beginning of 22 VAC 15-51-50A]
- delete the sentence from “C” that reads: “The sworn statement or affirmation, criminal history record report, and central registry finding must be kept in locked files” and replace it with: “Background checks information must be kept in a confidential location with limited access to....”
- delete from “C” language that applicants and agents and their designees “are the only center staff who may have access to these documents. Note – The board president must have access to these documents”
- divide the information in “D” to state that: 1) the Department must provide documentation to the person disqualified from licensure and 2) the center or the Department must provide documentation to the person disqualified from employment or staff volunteer service

22 VAC 15-51-80 Describing the waiver of criminal conviction

- no changes

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Mr. Crumpton then reminded Committee members that the next full Council meeting dates are May 8, 2003 and June 12, 2003.

Adjournment

There being no further business, the meeting was adjourned at 1:35 p.m.