Clearance of Agency Activity

Rhode Island Department of Children, Youth and Families
Policy: 700.0105
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To ensure appropriate safeguards, state and federal law mandates clearance of agency activity from the Department of Children, Youth and Families (the Department) for many individuals, including minors and adults, who provide care to children and youth. The Department is both authorized and required to promulgate rules to implement state and federal law. **Related Procedures** provide detailed direction regarding who is required to submit to the clearance of agency activity, the process for securing the review of Department records, individuals and organizations that are required to pay a fee and disqualifying information that may be reported as a consequence. Individuals subject to a clearance of agency activity may also be subject to a statewide or nationwide criminal record background check and/or an employment background check as described in **Related Policies**.

The following federal and state statutes apply:

Adam Walsh Child Protection and Safety Act of 2006 (PL 109-248)
Fostering Connections to Success and Increasing Adoptions Act of 2008, (Public Law 110-351)
RIGL 15-7-11 **Investigation and report as to adoptive home**
RIGL 40-11-13 **Confidentiality of reports and records – Penalty for disclosure**
RIGL 40-13.2 **Certification of Child Care and Youth Serving Agency Workers**
RIGL 40-13.2-2 **Qualification for childcare employment**
RIGL 40-13.2-3.1 **CANTS (Child Abuse and Neglect Tracking System) check – Operators and employees)**
RIGL 40-13.2-7 **Rules and regulations**
RIGL 42-72.1-3 **Powers and scope of activities**
RIGL 42-72-8 **Confidentiality of records**

Related Procedures

Clearance of Agency Activity
Clearance of Agency Activity-Addendum, Disqualifying Information

Related Policies

Criminal Record Background Check(s)
Employment Background Checks Facility Operators/Facility Employees
Kinship Care
Licensing of Foster Care Homes

Clearance of Agency Activity

Procedure from Policy 700.0105: Clearance of Agency Activity

A. The following individuals (minors or adults) are subject to Departmental clearance:
   1. Subjects of reports of child abuse and/or neglect to Child Protective Services (CPS)
   2. Individuals referred to the Department for services
   3. Adult members of household where child active with the Department resides
   4. Individuals associated with Department involved families
   5. Relative and non-relative foster care providers
   6. Adoptive parents
   7. Legal guardians
   8. Respite care providers
   9. Visiting resources
   10. Operators and employees, who have supervisory/disciplinary authority over and/or routine contact with children without the presence of others, of:
      a. Residential Child Care Facility(s)
      b. Non-residential Child Care Facility(s)
      c. Child Placing Agency(s)
      d. Community Based Program(s) required to be licensed or certified by the Department
   11. Department employees, interns and volunteers
   12. Individuals associated with organizations as determined by the Department.

B. Individuals subject to a clearance of agency activity may also be subject to a statewide or nationwide criminal records background check and/or an employment background check. Refer to DCYF Policy 900.0040, Criminal Record Background Check(s) and DCYF Policy 900.0035, Employment Background Checks Facility Operators/Facility Employees.

C. The following individuals must pay for the Department clearance:
   1. Individuals seeking to adopt through private agencies.
   2. Child Care home and center providers, assistants and emergency assistants.
   3. All staff of group homes and residential programs.
   4. Volunteers of private agencies who have supervisory or disciplinary power over or routine contact with children without the presence of staff.
   5. (With the exception of employees of governmental agencies in the performance of official duties), individuals requesting an inter-state clearance for child welfare history.
   6. The fee for each instance of Departmental clearance is ten dollars.
      a. Individuals required to pay for the Department clearance attach a bank cahiers check or money order to the application. Credit cards and personal checks are not allowable and agencies cannot be billed. Cashier check or money order is payable to: the General Treasurer, State of Rhode Island.
      b. Payment cannot be submitted in person. Payment is mailed to:
         Department of Children, Youth and Families
         Management and Budget Office
         101 Friendship Street
         Providence, RI 02909

D. ~~A clearance is completed prior to a person working or serving in a role subject to a Department records clearance.~~

1. ~~The RICHIST system contains all information relating to investigations and provides information about those cases opened or closed to the Department after January 1983. Assistance in accomplishing these tasks is available through RICHIST Help, How Do I, Agency Clearances.~~
2. ~~Masterfile contains historical information relating to cases which are not included in the RICHIST database. Individuals are cleared through this system when it is determined that this dated information may be relevant. Records Center staff provide Masterfile clearance and/or assistance, as needed.~~
3. ~~Notification of the results of the clearance is provided to the applicant and employer or requesting organization, providing the applicant has authorized the release of information.~~
4. ~~Department clearances are completed as part of the renewal process for all Department licenses.~~
5. ~~Documentation is as follows:~~
   a. ~~All information obtained through the clearance is recorded on the Department form #035 and included in the hard copy record. If there is a person record for the individual in RICHIST, the clearance is documented in the Background Check section of the Person Management window in RICHIST.~~
   a. ~~The clearance for an emergency kinship (child specific relative and non-relative) placement resource is documented on the Department form #035, Department Clearance Request/Results, in accordance with DCYF Policy 900.0025, Kinship Care.~~
   b. ~~Child care facilities utilize the Department form #035A, Department Clearance Request/Results (Facility).~~
6. ~~In emergency situations, a complete check of this data cannot delay the processing of a referral. There may only be time to make the minimum clearance to determine if the subject of the report is currently active with the Department or has had prior Departmental involvement. The assigned worker is responsible to ensure that a comprehensive records check is completed as soon as possible.~~
7. ~~During the course of conducting a Department clearance, staff may discover information about the applicant, not relating to disqualifying child abuse and/or neglect, which he or she believes poses a risk of physical injury by the person to himself or herself or others.~~
   a. ~~Staff may believe that disclosure of the records is necessary to reduce that risk.~~
   b. ~~In this situation, the staff consults the Department's chief legal counsel to determine if disclosure of this information is permissible under RIGL 42-72-8, Confidentiality of Records.~~

E. ~~Clearances are completed by staff assigned to the case.~~

1. ~~Child Protective Services Investigative and Intake staff initiate and complete Department clearances, including a RICHIST and Masterfile Check, relating to their assignments, including:~~
   a. ~~Subjects of reports of child abuse and/or neglect to the Call Floor.~~
   b. ~~Individuals referred to the Department for services.~~
   c. ~~Adult members of household where a child active with the Department resides.~~
   d. ~~Individuals associated with Department involved families.~~

e. ~~Emergency kinship (child specific relative and non-relative) placement resources.~~

f. ~~Clearances must be completed before a case is transferred to the Family Services Unit (FSU).~~

2. ~~FSU, RI Training School (RITS) and Probation staff initiate and complete Department clearances, including a RICHIST and Masterfile Check, relating to their assignments, including:~~

a. ~~Case related checks e.g., adult members of household where child active with Department resides, individuals associated with Department involved families.~~

b. ~~Emergency kinship (child specific relative and non-relative) placement resources.~~

3. ~~Adoption and Foster Care Licensing and Community Services and Behavioral Health staff initiate and complete Department clearances, including a RICHIST and Masterfile Check, relating to their assignments, including:~~

a. ~~During licensing and renewal of licensing processes.~~

b. ~~Residential facility operators and employees.~~

c. ~~Child placing agency providers.~~

d. ~~Children's behavioral health providers.~~

e. ~~Relative and non-relative foster and adoptive parents and household members.~~

f. ~~Legal guardians and household members.~~

g. ~~Visiting resources (a visiting resource is an individual who maintains regular contact, which may include overnight and weekend visitation, with a child in the care of the Department and is considered to be a prospective foster care resource).~~

h. ~~Department checks are done on any relative guardian and any adult living in the home of any relative guardian before the relative guardian may receive Title IV-E kinship guardianship assistance payments on behalf of the child.~~

i. ~~Foster Care and Adoption Licensing staff request from any other state in which the prospective foster or adoptive parent or other adult household member has resided in the preceding five years, a check of any child abuse and neglect registry maintained by that state before the prospective foster or adoptive parent may be licensed.~~

i. ~~These checks are completed regardless of whether Title IV-E foster care maintenance payments or adoption assistance payments are to be made on behalf of the child.~~

ii. ~~Foster Care Licensing worker reviews information received from the State Central Registry in each state that the prospective caretaker(s) and any other adult(s) living in the home have resided in the preceding five years.~~

iii. ~~The worker documents the results of the check on the Department form #035.~~

iv. ~~If another state does not maintain a registry or if the state has an Administration for Children and Families (ACF) approved delayed effective date, worker must document on the Department form #035 and this will not affect licensure.~~

v. ~~If another state does maintain a registry and is unwilling to provide this information, a license may not be issued until the information is received. The Worker documents on the~~

Department form #035 and informs the Licensing Administrator or designee, who will notify the ACF regional office.

j. Specific procedures relating to processing and notification of clearances for foster care licensing, including emergency kinship care are outlined in DCYF Policy 900.0025, Kinship Care and DCYF Policy 900.0020, Licensing of Foster Care Homes.

4. Records Center staff complete the following Department clearances:
   a. Department personnel (including consultants, volunteers, interns and RITS employees).
   b. Prospective child care operators and employees.
   c. Department of Human Service (DHS) programs program or staff.
   d. Individuals associated with organizations determined by the Department to require a clearance.
   e. Requests from other states, including federally mandated child abuse and neglect registry checks.
   f. Records Center receives requests for clearance from Department staff and other agencies and organizations.
      i. Requesting staff person completes Section I of the Department form #035, Department Clearance Request/Results and forwards to the Record Center. Childcare facilities utilize the Department form #035A, Department Clearance Request/Results (Facility).
      ii. Records Center staff gathers information necessary to evaluate the clearance, enters it in Section II of the Department form #035 or #035A, and returns the completed form to the requesting staff person, the appropriate unit or to the requesting agency.
      iii. The requesting staff person makes the final determination as described below and informs the appropriate individuals of the clearance outcome.

F. If there is a person record for the individual in RICHIST, the clearance is documented in the Background Check section of the Person Management window in RICHIST. The clearance for an emergency kinship (child specific relative and non-relative) placement resource is documented on the DCYF #035, DCYF Clearance Request/Results, in accordance with DCYF Policy 900.0025, Kinship Care.

G. If the Department clearance reveals indicated finding(s) of child abuse and/or neglect and the applicant is identified as the indicated perpetrator, the worker or supervisor reviews relevant information in the record to ensure that the finding is accurate. The Worker/supervisor reviews the results of the Department clearance and follows procedures outlined below to determine if the information will disqualify a person from working, obtaining a license or serving in any other role subject to a Department records clearance.

H. The Clearance of Agency Activity Addendum, Disqualifying Information, utilized for all Person Search checks conducted by the Department, lists indicated allegations of child abuse and/or neglect which disqualify a person from working, obtaining a license or serving in any role subject to a Department records clearance.
   1. Most of the indicated findings of abuse and/or neglect listed automatically disqualify an individual from acting in such a capacity.
   2. Administrative discretion is allowed in a case where the sole indicated finding is Excessive/Inappropriate Discipline (#10), Cut/Bruise/Welt (#11) or Drug/Alcohol Abuse (#15) if there is no serious physical injury to a child. In these limited

situations, there can be an administrative determination that, notwithstanding an indication of one of these three allegations, the individual should not be disqualified from employment or licensing/certification.

a. This determination can be made by the Executive Director, Deputy Director, Associate Director, Assistant Director of Child Protective Services, Chief of Child Protective Investigations, Regional Director, the Assistant Director of Community Services and Behavioral Health and the Licensing Administrator.

b. The Executive Director, Deputy Director, Associate Director, Assistant Director of Child Protective Services and Chief of Child Protective Investigations are authorized to overturn the indicated finding.

c. If there is a difference of opinion between divisional administrators regarding the licensing of a placement based on one of these findings, the respective division heads review issues and make final determination.

3. All agency involvement will be reviewed and based upon such review, an individual with a history of Department involvement that is not automatically disqualifying may be denied working or serving in a role subject to a Department records clearance if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the individual.

4. In instances where there are indicated allegations of child abuse and/or neglect, which are not included in the Clearance of Agency Activity Addendum, Disqualifying Information, the applicant is not automatically disqualified from seeking employment or license. The decision to hire remains with the employer. The decision to license remains with the Department.

I. Clearances for Employment Purposes.

1. The following procedures apply to individuals identified in identified in RIGL 40-13.2-3.1.

a. Residential child care facility operators and child care facility employees who have supervisory/disciplinary authority over or routine contact with a child or children without the presence of others.

b. Nonresidential child care facility operators and employees who have supervisory/disciplinary authority over or routine contact with a child or children without the presence of others and children's behavioral health program operators and employees who have supervisory/disciplinary authority over or routine contact with a child or children without the presence of others.

c. Child Placing Agency operators and employees who have supervisory/disciplinary authority over or routine contact with a child or children without the presence of others and providers.

d. Department employees who have supervisory/disciplinary authority over or routine contact with a child or children without the presence of others.

2. The Department receives request for clearance (form #035 or #035A) with release of information signed by the applicant.

3. The assigned worker or Records Center staff completes the Department clearance and documents results on the Department form #035 or #035A.

a. If a clearance completed by Records Center was requested by a Department employee or unit, the #035 or #035A is forwarded to assigned worker or unit where it is determined if applicant is suitable for employment or licensing.

b. ~~If a clearance completed by Records Center was requested by an outside agency, the Records Center administrator or designee forwards the results of the clearance to the requesting agency.~~

4. ~~If the Department clearance reveals indicated finding(s) of child abuse and/or neglect and the applicant is identified as the indicated perpetrator, the worker or supervisor reviews relevant information in the record to ensure that the finding is accurate.~~
5. ~~Worker/supervisor reviews the results of the Department clearance and follows procedures outlined in Section E above to determine if the information will disqualify a person from working, obtaining a license or serving in any other role subject to a Department records clearance.~~
6. ~~Department Licensing informs family home childcare applicants of any disqualifying information and of the right to appeal.~~
7. ~~The following notifications of clearance results are provided to facility employers and applicants by assigned worker/supervisor.~~
   a. ~~The Department form #171, Employment Status Notification-Employer, is forwarded to the employer indicating the results of the clearance:~~
      i. ~~Indicated child abuse and/or neglect - Disqualifying Information.~~
      ii. ~~Indicated child abuse and/or neglect - Not automatically disqualifying.~~
      iii. ~~No record of indicated child abuse and/or neglect.~~
   b. ~~The Department form #171A, Employment Status Notification-Applicant, is forwarded to the applicant indicating the results of the clearance (i-iii below). If clearance reveals any indicated child abuse and/or neglect, the Department form #171A provides specific findings of i or ii below and the Department form #016, Request for Hearing is forwarded to applicant. A childcare center applicant who has no record of indicated abuse and/or neglect (iii below) will be informed of the clearance results by the prospective employer.~~
      i. ~~Indicated child abuse and/or neglect - Disqualifying Information.~~
      ii. ~~Indicated child abuse and/or neglect - Not automatically disqualifying.~~
      iii. ~~No record of indicated child abuse and/or neglect.~~
8. ~~The following notifications of clearance results are provided to requesting agencies by Records Center administrator or designee.~~
   a. ~~The Department form #171, Employment Status Notification-Employer is forwarded to the employer, except in situations involving DHS programs, indicating the results of the clearance:~~
      i. ~~Indicated child abuse and/or neglect - Disqualifying Information.~~
      ii. ~~Indicated child abuse and/or neglect - Not automatically disqualifying.~~
      iii. ~~No record of indicated child abuse and/or neglect.~~
   b. ~~When the requesting agency is DHS, the Department form #171A, Employment Status Notification-Applicant, is forwarded to DHS indicating the results of the clearance (i-iii below). DHS notifies the applicant of the clearance results.~~
      i. ~~Indicated child abuse and/or neglect - Disqualifying Information.~~
      ii. ~~Indicated child abuse and/or neglect - Not automatically disqualifying Information.~~
      iii. ~~No record of indicated child abuse and/or neglect.~~

Clearance of Agency Activity-Addendum, Disqualifying Information

STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES
Clearance of Agency Activity - Addendum
Disqualifying Information

An applicant, who has been identified as an indicated perpetrator of a Child Protective Services (CPS) Investigation with a final finding of an allegation listed below, is disqualified from owning or seeking employment in a child care facility, receiving a license to provide care for a child or serving in any other role subject to Department clearance.

Indicated Abuse or Neglect Findings
Death
Brain Damage/Skull Fracture
Subdural Hematoma
Internal Injury
Malnutrition/Starvation
Drug/Alcohol Abuse*
Sexually Transmitted Disease
Sexual Intercourse
Sexual Exploitation
Sexual Molestation
Failure to Thrive

Indicated Abuse Findings
Burn/Scalding
Poisoning
Wound
Bone Fracture
Excessive/Inappropriate Discipline*
Cut/Bruise/Welt*
Human Bite
Sprain/Dislocation

* In limited situations, involving incidents in which there is no serious physical injury to a child, there can be an administrative determination that, notwithstanding an indication of one of these three allegations, the individual will not be disqualified from employment or licensing.

In instances where CPS involvement is noted, but not specified above, the applicant is not automatically disqualified from seeking employment or a license. The decision to hire remains with the employer. The decision to license remains with the Department.