

**Verifying Staff Employment in Child Care Facilities
During Annual Unannounced Inspections
September 18, 2015**

BACKGROUND:

Family Law Article §5-580.3 authorizes the Maryland State Department of Education to prohibit the operator of a child care center, that is required to be licensed, from employing individuals who have committed certain criminal offenses or who have been identified as responsible for child abuse or neglect.

Child Care employees are fingerprinted for criminal history record checks using the child care facility and the MSDE Office of Child Care Regional Office authorization numbers. The Department of Public Safety and Correction sends CJIS criminal history results to the child care facility and to the appropriate Regional Office daily, via a certified e-mail account. Alerts, noting criminal activity perpetrated subsequent to initial record checks, are also sent to the regional offices.

Each Regional Office saves the electronic criminal histories and maintains an electronic file of all criminal background checks received from CJIS. (See **Instructions for Saving EARL RESPONSES**.) An electronic file called **JES2MAIL Reports** is maintained and updated weekly on SharePoint (MSDE in-house database) which gives a quick overview of CBC results noting “yes” or “no” in response to the existence of criminal activity. Full rap sheets are housed in the electronic email file. Alerts are followed-up and noted in a report housed in the SharePoint database named “**LEGISLATIVE AUDIT Alerts_Follow-up**.”

COMAR 13A.16 Child Care Centers, 13A.17 Letters of Compliance and 13A.18 Large Family Child Care Homes each at .06.03 “Suitability for Employment” outlines mandatory and discretionary employment exclusions, and notification requirements. The Child Care Center Manual describes assessment methods for determining compliance. The “**Guidance Suitability for Employment Process**” further defines the process.

COMAR 13A.16 Child Care Centers, 13A.17 Letters of Compliance and 13A.18 Large Family Child Care Homes each at .03.05 “Staff Records” requires child care providers to maintain current and complete lists of personnel (paid and unpaid) who work at the facility. The Child Care Center Licensing Manual requires licensing staff to review the facility’s employment record during unannounced inspections to determine if it is current and complete. Current and completed means that OCC is aware of all personnel working in the facility, and in addition to being qualified for a staff position, if applicable, criminal background checks (CBC) and child and adult abuse and neglect clearances (Clearance) have also been conducted for each employee. During the verification process, notations are made by Licensing Specialists on the OCC 1203 *Child Care Facility Personnel List/Staff Change Form*. These notations have been inconsistent statewide.

PURPOSE:

For statewide consistency, this document publishes the steps taken during unannounced inspections when verifying employment of current personnel, when verifying whether CBCs and Clearances were conducted for appropriate individuals in child care facilities; and when verifying whether former employees were no longer employed. This document provides consistency in documenting the findings. As a supplement to the existing process, OCC Form 1203A, to be maintained in the provider file, has been created to provide an audit trail.

INSTRUCTION:

I. Preparing for the Unannounced Inspection

- A. Retrieve the OCC 1203 *Child Care Facility Personnel List/Staff Change Forms* from provider file – initial listing and subsequent changes.
- B. Retrieve facility's *Associated Party* list in CCATS and compare with OCC 1203 to ensure that all associated parties are in CCATS.
- C. The following documents, associated with the facility, will be needed for the unannounced inspection:
 1. The CCATS *Associated Party* list. (notes DOBs and SSNs)
 2. OCC 1203 *Child Care Personnel List/Staff Change Form(s)*
 3. OCC 1203A *Verification of Criminal Background Check and Child Abuse and Neglect Clearances in Child Care Facilities*

II. Verification Process

- A. Upon arrival to the child care center, request to review the facility's employment record to include paid individuals and non-paid individuals who have frequent access to children in care.
 1. Employers keep employment records in many forms, i.e. payroll registers, handwritten employment lists, computerized listings, centralized human resource (HR) record systems used by corporations with multi-site facilities, contractual payroll vendors, etc.
 2. Discuss and familiarize yourself with the format in which the provider maintains the record of employees who receive payroll checks. If using a centralized HR system, get name and number for HR contact person.
 3. Discuss and familiarize yourself with the format in which the provider maintains the list of individuals who are not paid and have frequent access to the children in care.
- B. Compare the facility's employment record, including the non-paid individuals who have frequent access to children in care, with the CCATS *Associated Party* list.

1. Compare employee names from the facility's employment record and names of non-paid individuals with frequent access to children in care, with the names on the CCATS *Associated Party* list.
 2. Check to see if all paid employees have applied for, or obtained, criminal history records checks.
 3. Check to see if all paid employees, and non-paid individuals with frequent access to children in care, completed a Clearance form OCC 1260 *Release of Information*.
 4. Place a √ above the name of each individual on the OCC 1203 who is matched with the facility's employment record.
- C. Note all discrepancies on the OCC 1203A form *Verification of Criminal Background Checks and Child Abuse and Neglect Clearances*.
1. Current Employees
 - a. Check OCC 1203 to see if any information is needed from the provider that was not submitted with the personnel list.
 - b. If information is collected, note on the OCC 1203A, the name of individual and type of information received from provider.
 - c. Note the dates that information was received on the OCC 1203 in appropriate place under the appropriate name(s).
 2. New employee has been hired
 - a. Check to see if an application for a Criminal Background Check (CBC) was made or the CBC obtained. If not, instruct the employer to have employee apply as soon as possible. Until the CBC is received by the Office, the employee may not be left alone with children in care.
 - b. Check for notarized and signed *Release of Information* form. If not completed, instruct the employer to have employee submit the notarized and signed *Release of Information* form as soon as possible.
 - c. Add name of new employee on OCC 1203A and note receipt of Release, date CBC was received by facility, and other information as applicable.
 - d. If CBC was received by facility, immediately check for OCC copy upon return to the Office and initiate employability process.
 - e. If CBC was not obtained by facility or signed Release is not obtained at time of inspection, follow-up until they are received and receipt of same is duly noted in the provider file.
 - f. Follow-up with provider to ensure receipt of all documents to qualify the new staff person for requested position.

3. Employee is no longer employed
 - a. If employee is no longer employed, note the date employment ended on the OCC 1203A.
 - b. Compare last employment record where employee's name appeared with the subsequent employment record where employee's name no longer appeared.
 - c. Draw a line through the individual's name on the OCC 1203 and note the date no longer employed.
- D. Ensure that OCC 1203A is complete with all discrepancies noted.
- E. Request provider to complete and submit an OCC 1203 noting individuals who should be added and individuals to be deleted. This should reflect the same individuals as noted on OCC 1203A. Ensure that the provider signs and dates the form.
- F. Request provider to submit a revised staffing pattern.
- G. Sign OCC 1203A affirming that the verification was conducted.
- H. Upon return to the Office, enter all changes in CCATS within 10 days.
- I. Attach copy of OCC 1203A with CCATS *Associated Party* list and place in provider file. Maintain in accordance with OCC retention schedule (5 years).
- J. Place updated OCC 1203 submitted by provider in provider file grouped with the other OCC 1203s.
- K. Continue to follow-up on discrepancies noted on OCC 1203A until all required information is received and duly noted.

For additional information, you may contact Paula Johnson, Chief, Licensing Branch at paulad.johnson@maryland.gov or 410-569-8071.