**Section 50.430 Provider Background Checks**

a) Child Abuse/Neglect

As a condition of eligibility to receive a State subsidy for providing child care services to eligible families, all license exempt child care providers under the Child Care Act of 1969 [225 ILCS 10] must agree, in writing, to a Child Abuse and Neglect Tracking System (CANTS) check in the Central Register as defined in the Abused and Neglected Child Reporting Act [325 ILCS 5].

1) Providers subject to the CANTS check include:

A) Child care centers exempt from licensing (89 Ill. Adm. Code 377);

B) Child care homes exempt from licensing (89 Ill. Adm. Code 377);

C) Relative child care in the home of the relative (see Section 50.410);

D) Non-relative child care in the home of the child (see Section 50.410); and

E) Relative child care in the home of the child (see Section 50.410).

2) All staff at a child care center exempt from licensing and all persons age 13 and older residing in a child care home exempt from licensure are subject to CANTS check.

3) Limitations on Perpetrators of Child Abuse/Neglect

Persons who have been indicated as the perpetrator of any of the child abuse/neglect allegations identified in 89 Ill. Adm. Code 385.50 shall be disqualified from participating in the child care assistance program.

b) Sex Offender Registry

All persons subject to CANTS checks pursuant to this Part shall be screened for inclusion in the Illinois and National Sex Offender Registries [730 ILCS 150].

c) Criminal History

1) As a condition of eligibility to receive a State subsidy for providing child care services to eligible families, all license exempt child care providers, except a provider who is related to the child, shall complete and sign authorizations for a State and Federal Bureau of Investigation (FBI) fingerprint-based criminal history record check and submit to fingerprinting, if required, to determine if the child care provider has prior criminal convictions or pending criminal charges. Provider types subject to a fingerprint-based criminal history record check include:

A) Child care centers exempt from licensing (89 Ill. Adm. Code 377);

B) Child care homes exempt from licensing (89 Ill. Adm. Code 377); and

C) Non-relatives who provide care in the child's home (see Section 50.410).

2) Persons subject to a background check include:

A) an employee of a license exempt child care center whose duties require the employee to be present during the hours children are present in the facility. In addition, any person who is permitted to be alone with children receiving care in the facility is subject to the background check requirement. This applies to all current and conditional employees as well as any individual used as replacement or supplemental staff in the direct care and supervision of children.

B) All persons age 18 and over who reside in a child care home exempt from licensing even if those household members are not usually present in the home during the hours the children are present. This shall also apply to a person age 13 and over who has been tried as an adult and convicted of any crime identified in 89 Ill. Adm. Code 385.

3) Fingerprints shall be submitted to the Illinois State Police via the fingerprint vendor stipulated by Department of Children and Family Services (DCFS) for criminal history checks.

4) Fingerprints for the following persons shall be submitted to the FBI for a search of its records:

A) persons who have resided outside the State of Illinois for any part of the preceding three years; and

B) persons who have a record of criminal activity that may impact their suitability for employment as evidenced either by their own acknowledgment or according to the records of the Illinois State Police.

5) Persons subject to criminal background checks shall make themselves available for fingerprinting when scheduled by DCFS or its authorized representatives. Persons subject to criminal background checks who fail to appear for scheduled fingerprinting will be disqualified as a child care provider.

6) Persons who have been convicted of certain serious crimes identified in 89 Ill. Adm. Code 385.Appendix A (Background Checks) will be disqualified as a child care provider.

7) A copy of the criminal history record check shall be provided to the subject of the criminal history record.

8) Any information concerning convictions is confidential and may not be transmitted outside DCFS or to anyone within DCFS, except as needed for the purposes of determining participation in the child care assistance program.

9) There is no charge to any person subject to background checks required by this Part.

10) Any person who fails to provide written authorization for a background check pursuant to this Part shall be disqualified from participating in the child care assistance program.

d) Convictions that Disqualify Persons for Employment or Residence in a Child Care Facility that Allows Access to Children

A person who has been convicted of certain serious crimes identified in 89 Ill. Adm. Code 385.Appendix A or who has been convicted of committing or attempting to commit any of the offenses identified in this subsection (d) shall be disqualified from participation in the child care assistance program. In addition, no person who has been convicted of certain serious crimes identified in 89 Ill. Adm. Code 385.Appendix A or who has been convicted of committing or attempting to commit any of the offenses listed in this subsection (d) shall either be employed in a license exempt child care facility in a position that allows access to children or reside in a family home in which a licensed-exempt child care facility operates. This includes persons who have been:

1) declared sexually dangerous persons under the Sexually Dangerous Persons Act [725 ILCS 205] or identified as sex offenders in the Illinois Sex Offender Registry [730 ILCS 150] operated by the Illinois State Police; or

2) convicted of committing or attempting to commit any of the offenses specified in 89 Ill. Adm. Code 385.Appendix A that are defined by the Criminal Code of 1961 [720 ILCS 5] or any earlier Illinois criminal law or code (see Section 4.2 of the Child Care Act of 1969 [225 ILCS 10/4.2]); or

3) convicted of committing or attempting to commit an offense in another state, the elements of which are similar and bear a substantial relationship to any of the criminal offenses specified in 89 Ill. Adm. Code 385.Appendix A.

e) Assessment of Indicated Reports of Abuse or Neglect and Criminal Convictions

A person who is disqualified from participating in the child care assistance program as a license exempt child care provider who has an indicated report of abuse or neglect or who has been convicted of certain serious crimes identified in 89 Ill. Adm. Code 385.Appendix A may only receive payment through the child care assistance program if the individual obtains a license from DCFS in which a review and assessment of the allegations and criminal charges will be made pursuant to 89 Ill. Adm. Code 385.

f) Pending Criminal Charges

A person who has criminal charges pending will not be disqualified from participating in the child care assistance program as a license exempt child care provider.

(Source: Amended at 38 Ill. Reg. 18490, effective August 22, 2014)