**Section 385.20 Definitions**

"Access to children" means a child care facility employee's duties that require the employee to be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Assistant" or "child care assistant" means a person whose credentials have been evaluated and approved by the DCFS Licensing Division for the purpose of assisting a licensed home caregiver in the operation of the day care home, group day care home, or foster family home.

"Authorization for background check" means a complete, signed form prescribed by the Department which authorizes a background check as defined in this Part and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements of this Part.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police (ISP) and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Database (NCID) when applicable for prospective foster and adoptive parents; and

a check of the Child Abuse and Neglect Tracking System/Statewide Automated Child Welfare Information System (CANTS/SACWIS) and other state child protection systems, and the National Registry to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois and National Sex Offender Registries.

*"Child" means any person under 18 years of age.* (Section 2.01 of the Child Care Act)

"Child Care Act" means the Illinois Child Care Act of 1969 [225 ILCS 10].

*"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed or who applies for a license as a foster family home under* Section 4 of the Child Care Act. (Section 2.05 of the Child Care Act) A child care facility also means those facilities described in the Child Care Act, including any child care institution, maternity center, child welfare agency, day care center, day care agency, group home, foster family home, day care home, group day care home, partially exempt secure child care facility, or youth emergency shelter.

"Conditional employee" means an individual (including any volunteer, unlicensed contractual employee, substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children and who has commenced such duties while awaiting the results of the background check required by this Part.

*"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.* (Section 2-5 of the Criminal Code of 2012 [720 ILCS 5/2-5])

"Denial of application for license" means the refusal to grant a license or permit to a person, group of persons, agency, association or organization that applied for a license to operate a child care facility.

*"Department" or "DCFS" means the Illinois Department of Children and Family Services.* (Section 2.02 of the Child Care Act)

"Director" means the Director of the Illinois Department of Children and Family Services.

"Employee" means any staff person employed by a child care facility, including any volunteer, unlicensed contractual employee, substitute, or assistant and other support staff who have access to children.

"Final placement decision" means the decision made by the Department, within 90 days, including background check results, after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interests of the child.

"Governing body" means the board of directors of a corporation; otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the child care facility.

"Illinois Sex Offender Registry" means the registry of any person convicted of a felony sex crime or an attempt to commit a felony sex crime operated and maintained by the Illinois State Police.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

*"License applicant" means*, for purposes of background checks, *the operator or person with direct responsibility for daily operation of the facility to be licensed.* (Section 4.4 of the Child Care Act)

"Licensing entity" means the Department or a supervising agency recommending the license or processing the employment application.

"Licensing representative" means a person authorized by the Department under the Child Care Act to examine facilities for licensure.

"Member of the household" means a person of any age whose legal residence is at a licensed foster home, day care home or group day care home, or any adult who stays in the home on a regular or part-time basis, including paramours.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601])

"Multi-function agency" means an agency, association, or other organization that operates a child care facility, child welfare agency, or day care agency in addition to other services not subject to licensure under the Child Care Act. A child care facility, child welfare agency, or day care agency may consist of distinct units, divisions, or departments of a multi-function agency. In a multi‑function agency, only the persons with direct authority for the operations of the child care facility and those who have access to children, as defined in this Section, are subject to the background check requirements of this Part.

"National Crime Information Database" or "NCID" means the National Crime Information Center and its incorporated criminal history databases.

"National Registry" means an electronic national registry of substantiated cases of child abuse and neglect supplied by the states, created by the U.S. Secretary of Health and Human Services in consultation with the U.S. Attorney General.

"National Sex Offender Registry" means an electronic national registry, operated and maintained by the United States Department of Justice, of any person convicted of a felony sex crime or an attempt to commit a felony sex crime in any state.

"Non-Licensed Service Provider" *means an individual or entity that contracts with the* Department *to provide child welfare services that enable the* Department *to perform its duties under the Abused and Neglected Child Reporting Act* [325 ILCS 5]*, the Child Care Act, and the Children and Family Services Act* [20 ILCS 505]. [225 ILCS 10/2.28] It also includes a person who provides child care in their home to a child for whom the Department is legally responsible on a weekly basis, such as weekly or several times per week, and caring for no more than 3 children under the age of 12 or receives only children from a single household for less than 24 hours per day. The three children include the family's own children or adopted children and any other persons under the age of 12, whether related or unrelated to the service provider. (See 89 Ill. Adm. Code 377.3(d))

"Operator" means any person responsible for the day-to-day management of the child facility.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Persons subject to background checks" means:

the operators of the child care facility;

all current and conditional employees of the child care facility;

all direct child welfare agency employees (see 89 Ill. Adm. Code 412);

any person who is used to replace or supplement staff;

any person who has access to children, as defined in this Section;

any person, including non-licensed service providers, who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code 357 (Purchase of Service); and

volunteers who have unsupervised contact with children.

If the child care facility operates in a family home, the license applicants and all members and prospective members of the household age 13 and over are subject to background checks, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

Non-licensed service providers who, on a regular basis, provide care in the provider's home to a child for whom the Department is legally responsible and all members of the household age 13 or over are subject to background checks.

For a final placement decision in a relative home, the relative and all members of the household age 18 and over are subject to criminal background checks (see 20 ILCS 505/5(v-1)).

"POS" means point of service.

"Presumption of Unsuitability" means a licensee, applicant for licensure, or a member of the applicant's or licensee's household that has been:

indicated as a perpetrator of neglect and/or abuse that resulted in a 20- or 50-year retention; or

indicated as a perpetrator on two separate child protection investigations, each with 5-year retentions.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children in a licensed child care facility outside the visual or auditory supervision of facility staff.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Department, replacing CANTS.

"Seasonal child care program" means a child care facility that operates a seasonal program that is subject to licensing by the Department.

"State Central Register" means the child abuse and neglect data system maintained by the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 40].

"Supervising agency" means a licensed child welfare agency, a licensed day care agency, a license-exempt agency, or the Department.

"Work-Study student" means a fulltime or parttime undergraduate, graduate or professional student participating in the Federal Work-Study Program administered through their school's financial aid office.

(Source: Amended at 45 Ill. Reg. 12963, effective September 28, 2021)