

February 15, 2012

Criminal Background Check Requirements

Any owner/owners of a child care facility shall provide documentation of a satisfactory criminal background check, at the time of initial application, change of ownership application, change of location application, and/or application for renewal for a child day care license.

All center staff of a child care facility shall have the results of a satisfactory criminal background check from Louisiana State Police in hand prior to the individual being present on the child care premises.

Where can I find regulations relating to criminal background checks in the licensing standards?

Class A Section 7305.N.1-3 and Section 7311.A.5 & B.
Class B Section 7361.M.1-3 and Section 7365.C.4

Who is considered center staff?

Center staff is defined as full or part-time paid or non-paid staff that perform routine services for the child care facility and have direct or indirect contact with children at the center. Center staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, driver, substitutes, foster grandparents and extra-curricular personnel.

The application for a child day care license requires the submission of documentation of criminal background information. Where can I obtain a copy of the application?

The current application can be downloaded from the department's website at www.dcfslouisiana.gov, select Service Providers or DSS for Business, scroll to "Licensing" select "Child Day Care Center" and download the application to apply for or renew a license.

Whose criminal background check should I submit with my initial or renewal application?

The following is a list of individuals by organizational type who are required to submit documentation of a satisfactory criminal background check:

- Individual ownership—individual and spouse.
- Partnership—all limited or general partners and managers as verified on the Secretary of State's website.
- Head Start—individual responsible for supervising center directors.
- Church owned, governmental entity, or university owned - any clergy and/or board member that is present in the facility during the hours of operation or when children are present.
- Corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:
 - Has unsupervised access to the children in care at the facility;
 - Is present in the facility during hours of operation;
 - Makes decisions regarding the day-to-day operations of the facility;
 - Hires and/or fires child care staff including the director/director designee;
 - Oversees child care staff and/or conducts personnel evaluations of the child care staff; and/or writes the facility's policies and procedures.

NOTE: If an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed above, a satisfactory criminal background check is required or a signed, notarized attestation form may be submitted in lieu of a satisfactory criminal background check. This attestation form is a signed statement from the owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

When does the provider need to request & obtain a satisfactory criminal background check from the Louisiana State Police?

Criminal background checks are required prior to the individual being present on the child care premises.

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Providers are required to obtain a satisfactory criminal background check in the following instances:

- Prior to an initial license being issued
- Hiring a new staff person
- Staff returns to the employment of the center after having left the employment of the center for 30 days or more
- When the center undergoes a Change of Ownership
- All day care staff are required to have a satisfactory criminal background check through Louisiana State Police, even staff **hired prior to September 1, 1987.**

May criminal background checks be transferred from one owner to another owner or one center to another center?

No.

May criminal background checks be transferred from one center to another center if owned by the same person or entity?

Yes.

What is the timeframe to obtain a clearance?

An individual **MUST** have a clearance from Louisiana State Police **BEFORE** being present on the child care premises. Hiring, continuing to employ, or the presence of any person whose personnel file does not contain a satisfactory criminal background check will be cited as a violation of the child care minimum standards and may result in the revocation of your license.

- Individuals are not to be on the child care premises.
- Individuals may not complete orientation.
- Individuals may not work unsupervised or supervised with children prior to receipt of the documented clearance.

State Police have asked for fingerprints. What is the next step?

If, when running the criminal background check, fingerprints are required to be submitted then, that individual cannot be on the premises until the clearance is received from the Louisiana State Police based on the fingerprint search. Receiving a request for providing a set of fingerprints to the Louisiana State Police (LSP) does **NOT** constitute a satisfactory criminal background check.

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In addition, sending the fingerprints to LSP does **NOT** constitute a satisfactory criminal background check.

You must wait for a response and clearance from LSP prior to the individual being present on the child care premises.

Can a criminal background check be obtained and fingerprints processed at my local Sheriff's office?

A criminal background check can be processed at the Sheriff's office in certain parishes.

A rap sheet will always be attached to a criminal background check that is processed at the Sheriff's office because these checks are processed by fingerprints. Each rap sheet shall include a State Identification Digit (SID) number. An "A" at the end of the State Identification Digit (SID) number means that person has a clear criminal record.

In order for the licensing specialist to accept the clearance from the Sheriff's office, the provider must present the verification form that a criminal background check was requested which includes provider's name and email address as well as the applicant's name and social security number **and** a rap sheet which includes this heading "Louisiana Department of Public Safety and Corrections, State Police Criminal Records, P.O. Box 66614 Mail Slip A-6, Baton Rouge, LA 70896," a SID number, and a listing all of the individual's descriptive information.

If there is not an "A" at the end of the SID # found at the top of the page, the individual does NOT have a clear criminal background check and may not be present in the child care facility. The lack of an "A" indicates that the applicant has arrests and they will be listed on the rap sheet. If a rap sheet is received showing arrests, but no disposition of charges, then contact must be made with the Clerk of Court's office in the parish where the arrest occurred in order to obtain the written disposition of charges. The rap sheet and disposition of charges shall be forwarded to the Licensing Program Coordinators for review and approval prior to individual being present on the child care premises. If the rap sheet or disposition of charges shows the charges were dropped, then that individual has a satisfactory criminal background check.

Which local Sheriff's offices have the capability to process State criminal background checks?

As of today, the parishes are as follows: Ascension, Bossier, Caddo, Calcasieu, Concordia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Lincoln, Madison, Morehouse, Orleans, Rapides, Red River, St. Helena, St. James, St. Mary, St. Tammany, Tangipahoa, Terrebonne Vernon, West Baton Rouge, and Union.

Note: In the future, additional Sheriff's offices in other parishes may become available to process fingerprints as LSP continues to work with local offices.

How can an individual obtain a portable criminal background check?

An individual can obtain a certified criminal background check for him/herself, also known as a "right to review" directly from the Louisiana State Police Headquarters in Baton Rouge. If a rap sheet is received, it must be forwarded along with disposition information regarding charges to the appropriate Licensing Program Coordinator for approval to work.

The individual can walk out of the Louisiana State Police Headquarters with a certified criminal background check stamped as a TRUE COPY and indicating either "Rapsheet attached" or "Response below". If a rap sheet is received, see the procedure outlined in the next question/answer.

The certified criminal background check is acceptable by an employer for a period of one year from the date of receipt of the clearance. Prior to the expiration of the criminal background check (one year from the date of issuance), you must obtain a criminal background check for the staff person.

What do I do when I receive a rap sheet for a prospective staff person?

The receipt of a "rap sheet" does not constitute a satisfactory criminal background check. Staff must have a satisfactory criminal background check prior to being on the premises of the center. If a rap sheet is received showing arrests, but no disposition of charges, then a contact must be made with the Clerk of Court's office in the parish where the arrest occurred in order to obtain the written disposition of charges. The individual cannot be on the child care premises prior to receiving a clearance.

If the rap sheet or disposition of charges shows the charges were dropped, then that individual has a satisfactory criminal background check. Should the rap sheet or disposition of charges show a conviction (whether misdemeanor or felony), plea of guilty, or nolo contendere then contact with the Licensing Program Coordinator must be made. The provider will need to make a copy of the rap sheet and disposition of charges available to the Licensing Program Coordinator for review. The information should always include an email address, as the Licensing Program Coordinator will respond via email as noted below.

What type of response will the Licensing Program Coordinator send once I submit a rap sheet for review?

The provider shall receive a response that will include the following type of information:

- “Rap sheet reviewed and the disposition of charges results in criminal history that **would not preclude** employment in a child care facility.”

Once the response is received the provider should print a copy of the email and attach it to the rap sheet and file it in the individual’s personnel record.

- “Rap sheet reviewed and disposition of charges results in a criminal history that **would preclude** employment in a child care facility.” The response shall include information regarding the offense and a statement that **the individual does not have a satisfactory criminal background check.**

Will Licensing staff review criminal background checks on-site at my facility?

Licensing staff will review staff records for criminal background checks during all licensing visits.

When do Licensing staff cite deficiencies for criminal background checks?

Deficiencies for criminal background checks include, but are not limited to:

- no clearance has been received,
- clearance was received after the individual had been working on the premises - regardless of the amount of time (can be as short as 1 day),

- individual has a rap sheet and no disposition of charges was secured,
- disposition shows individual has convictions, and/or
- criminal background check or related documents appear altered.

Note: The audit code on the criminal background check is used to verify the authenticity of the clearance from the Louisiana State Police.

Note: There is no grace period for allowing providers to obtain a criminal background check for staff.

Where can I find regulations relating to criminal background checks in the licensing standards?

Class A Section 7305.N.1-3 and Section 7311.A.5 & B.

Class B Section 7361.M.1-3 and Section 7365.C.4

Section 7305.N.1-3 and Section 7361.M.1-3

Any owner/owners of a child care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.

Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

Section 7311.A.5 & B and Section 7365.C.4 states:

Documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child care facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.

An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.

The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer

instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors:

1) documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility;

a) independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.

Does Licensing have a document that includes information regarding Criminal Background Check Requirements for Child Care Facilities?

A chart is available on the department's website at www.dcfslouisiana.gov and a copy of the chart is included in this document for your information.

What is the contact information for the Louisiana State Police Headquarters?

Bureau of Criminal Identification and Information, 7919 Independence Blvd. Baton Rouge – (225) 925-6095.