



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**



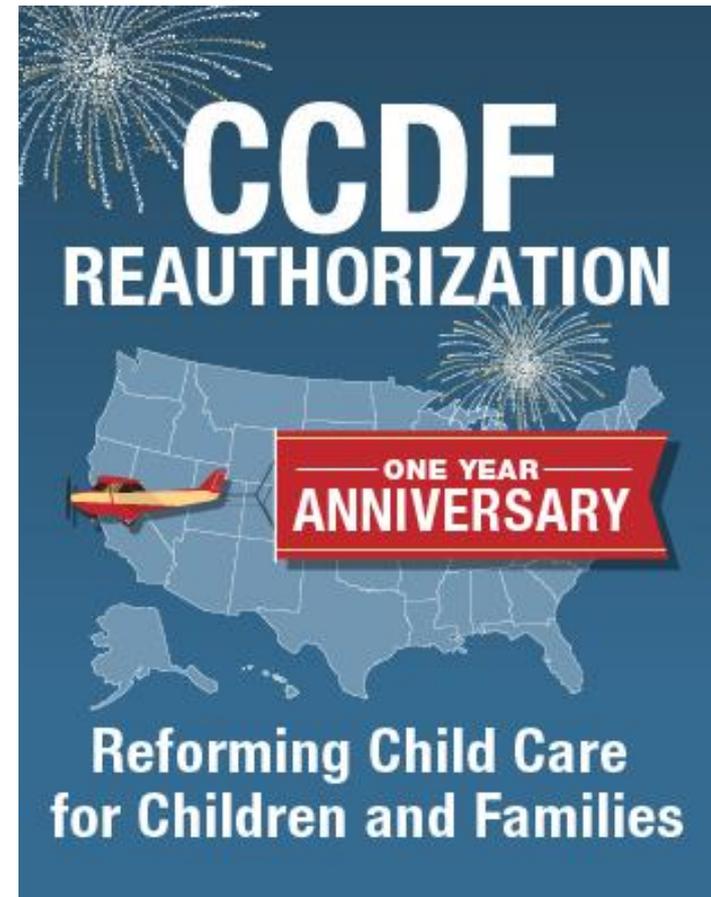
# CCDF 2015 NPRM Topical Webinar: Protecting the Health and Safety of Children in Child Care

# Presenters

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# Introduction

- In November of 2014 Congress passed the Child Care and Development Block Grant (CCDBG) Act of 2014 (P.L. 113-186) on a bipartisan basis. President Obama signed it into law November 19, 2014.
- The reauthorization was an historic re-envisioning of the Child Care and Development Fund (CCDF) program.
- This webinar summarizes certain components of the proposed rule.
- **For full text** see the Federal Register at <http://federalregister.gov/a/2015-31883>.



# What is a Notice of Proposed Rulemaking (NPRM)?

- Public notice of proposed federal regulations to address the law.
- Public comment period – 60 days from Federal Register publishing date (February 22, 2016).
- ACF will review public comments and issue final regulations.
- Projected final issuance Summer 2016.

# Overview of the CCDF NPRM

The proposed rule addresses the CCDBG Act of 2014, which includes provisions to:

- **Protect the health and safety of children in child care.**
- Help parents make informed consumer choices and access information to support child development.
- Provide equal access to stable, high quality child care for low-income children.
- Enhance the quality of child care and the early childhood workforce.

# Protect the Health and Safety of Children in Child Care

This webinar describes the following:

- Health and Safety Provisions (Licensing, Training, & Monitoring)
- Criminal Background Checks
- Emergency Preparedness and Response
- Which Proposed Provisions Would Apply to Tribes?
- The Public Comment Process



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# Health and Safety Provisions (Licensing, Training, & Monitoring)

# Rationale for Licensing Exemptions

## The law requires Lead Agencies to:

Describe why licensing exemptions applicable to CCDF providers (if any) do not endanger the health, safety, or development of children who receive services from license-exempt child care providers.

## The NPRM:

Clarifies that Lead Agency's description must include any exemptions based on:

- Provider category, type, or setting;
- Length of day;
- Providers not subject to licensing because the number of children served falls below a Lead Agency-defined threshold; and
- Any other licensing requirements.

[45 CFR 98.16(u) and 98.40(a)(2)]



# Health & Safety Training and Standards

The law:	The NPRM:
<ul style="list-style-type: none"><li>• Requires Lead Agencies to put in place training and health and safety requirements related to specified topics (first aid and CPR, SIDS prevention, etc.) for CCDF providers.</li><li>• Allows Lead Agencies to exclude relative providers from health and safety requirements (consistent with current regulations).</li></ul>	<ul style="list-style-type: none"><li>• Adds “recognition and reporting of child abuse and neglect” and “child development” to the list of required training. (45 CFR 98.41(a)(1)(xi))</li><li>• Defines pre-service or orientation as within three months of starting. (45 CFR 98.44(b))</li><li>• Includes all caregivers, teachers, and directors. (45 CFR 98.44(b)(2))</li><li>• Names Caring for Our Children Basics as a baseline for standards.</li><li>• Specifies that H&amp;S requirements should be appropriate to the age of the children. (45 CFR 98.41(a))</li></ul>

# Annual Required Monitoring

The law requires Lead Agencies to:

- Have in place monitoring requirements for CCDF providers by November 2016.
  - For licensed providers: pre-licensure and annual unannounced inspections
  - For licensed-exempt providers: annual inspection
- NPRM specifies that monitoring must cover the specified health & safety topics. (45 CFR 98.42(a))

# Qualified Monitors

The law requires Lead Agencies to ensure that:

- Licensing inspectors are qualified to inspect those child care providers and facilities;
- The ratio of licensing inspectors to such child care providers and facilities is maintained at a level sufficient to conduct effective inspections on a timely basis.

# Monitoring Implementation Options

The NPRM would:

- Allow use of differential monitoring or a risk-based approach for annual inspections, provided that the content covered by each visit is representative of the full complement of health & safety requirements. (45 CFR 98.42(b)(2)(iv)(A))
- Encourage coordination with other monitoring entities (e.g., licensing, QRIS, Head Start, CACFP) to meet monitoring requirements. (45 CFR 98.42(b)(2)(iii))
- Allow the option of developing alternative monitoring requirements for care in the child's home. (45 CFR 98.42(b)(2)(iv)(B))

# Monitoring and Inspection Reports

The CCDBG Act requires States/Territories make the results of monitoring and inspection reports available by electronic means in a consumer-friendly and easily accessible format.

- The NPRM includes additional specificity about the reports.

## Monitoring and Inspection Reports

- States/Territories must post full monitoring and inspection reports in plain language. If not in plain language, may post a plain language summary with full report.
- Reports must be posted in a timely manner. NPRM recommends, but does not require, posting within 90 days of inspection.
- Going forward, at least 5 years of results must be posted for each provider

[45 CFR 98.33(a)(2)(iii)]

# Reporting Serious Injury and Death

## The law requires Lead Agencies to:

- Report aggregate number of child fatalities occurring among children while in care in CCDF settings, listed by type of provider and describing whether they are licensed or license-exempt.
- Make publicly available the numbers of death, serious injuries (and instances of substantiated child abuse) in child care settings.

## The NPRM would:

- Require Lead Agencies to designate a State, Territorial or Tribal entity to which child care providers must submit reports of any serious injuries or death of children occurring in child care, regardless of whether or not they receive CCDF assistance (45 CFR 98.16(ff))
- Require that Lead Agencies mandate child care providers to report to a designated State, Territorial, or Tribal entity any serious injuries or deaths of children occurring in child care. (45 CFR 98.42(b)(4))

# Parental Complaints and Response

The NPRM would:

- Require Lead Agencies to describe how they will respond to complaints received through the national hotline and web site.
  - This description must include the designee responsible for receiving and responding to those complaints for both licensed and license-exempt providers. (45 CFR 98.16(hh))
- Require Lead Agencies to establish a hotline for parental complaints. (45 CFR 98.32)

# Child Abuse and Neglect

## The law requires Lead Agencies to:

- Certify in its plan that child care providers comply with procedures for reporting child abuse and neglect as required by section 106(b)(2)(B)(i) of the Child Abuse Prevention and Treatment Act (CAPTA).

## The NPRM would:

- Clarify that this requirement applies to caregivers, teachers, and directors of child care providers within the State (or service area). (45 CFR 98.15(b)(9))
- Clarify that providers must also comply with other child abuse reporting procedures and laws that may apply in the service area. (45 CFR 98.41(e))

# Addressing Quality & Child Development

The law requires Lead Agencies to:	The NPRM would:
<p>Describe (in their plan) standards for CCDF services that:</p> <ul style="list-style-type: none"><li>• Establish group size limits for specific age populations and appropriate child-staff ratios; and</li><li>• Include required qualifications for caregivers, teachers, and directors.</li></ul>	<ul style="list-style-type: none"><li>• Clarify that these standards should promote the caregiver and child relationship in the type of child care setting involved and provide for the safety and developmental needs of the children served. (45 CFR 98.41(d))</li></ul>

# How Do These Provisions Apply?

Provision  (Note: At Lead Agency option, relative providers may be exempted from health and safety requirements.)		PROVIDER SETTING			
		Licensed CCDF (FCC & Center)	License-Exempt CCDF (FCC & Center)	CCDF care in the child's home	Licensed non-CCDF FCC & Center
H & S Training <sup>1</sup> (pre-service/orientation & on-going)		•	•	•	
Monitoring	Annual Monitoring	• <sup>2</sup>	•	• <sup>3</sup>	
	Pre-inspections	•			
	Posting results of monitoring and inspection reports	•	•	•	•

<sup>1</sup> Applies to teachers, caregivers, and directors.

<sup>2</sup> Must be unannounced.

<sup>3</sup> NPRM proposes to give Lead agency the option of developing alternate monitoring requirements appropriate to an in-home setting.

# OCC Requests for Comment

Item	Citation
Whether there should be a specified time period for the new requirement that any licensed provider that did not previously receive a prelicensure inspection must be inspected prior to caring for a CCDF child.	45 CFR 98.42 p. 80501, column 2
The proposal to allow Lead agencies the option to develop alternate monitoring requirements for care provided in the child's home.	45 CFR 98.42 p. 80503, column 1
Whether the final rule should include a requirement to conduct unannounced inspections in response to complaints and whether this requirement should apply to just providers receiving CCDF or additional providers.	45 CFR 98.42 p. 80491, column 3 p. 80502, column 1
Concerns regarding not requiring inspections for licensed non-CCDF providers and suggestions for ensuring equal access to child care for CCDF families.	45 CFR 98.42 p. 80501, column 3



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# Criminal Background Checks

# Who Needs a Background Check?

Background checks are required for child care staff members (incl. prospective staff members) of all licensed/regulated/registered child care providers and all child care providers eligible to deliver CCDF-funded services.

A “child care provider” means:	A “child care staff member” means
<p>A center-based child care provider, family child care provider, or another provider of child care services for compensation on a regular basis that:</p> <ul style="list-style-type: none"><li>• is not related to all the children served; and</li><li>• is licensed, regulated, or registered under State law or receives CCDF funds.</li></ul>	<p>An individual (other than an individual who is related to all children for whom child care services are provided):</p> <ul style="list-style-type: none"><li>• who is employed by a child care providers for compensation; or</li><li>• whose activities involve the care or supervision of children for a child care provider or unsupervised access to children; or</li><li>• any individual residing in a family child care home age 18 and older.</li></ul>

[45 CFR 98.43(a)(1) and (2)]

# Components of a Criminal Background Check

The NPRM defines a comprehensive background check to include:

- An FBI fingerprint check using Next Generation Identification
- A search of the National Crime Information Center's National Sex Offender Registry
- A search of the following registries in the State where the staff member resides and each State where the staff member resided during the past 5 years:
  - State criminal repository using fingerprints;
  - State sex offender registry; and
  - State-based child abuse and neglect registry or database.

[45 CFR 98.43(b)]

# Cross-State Background Checks

The NPRM adds provisions that support cross-State background checks:

- States must have procedures in place to respond as quickly as possible to other States' requests for background check results in order to accommodate the 45 day timeframe (45 CFR 98.43(a)(1)(iii)).
- States must post their policies and procedures on their State websites, including the process by which a provider or another State may submit a background check request (45 CFR 98.43(g)).

# Flexibility and Processing Timeline

The NPRM adds areas of Lead Agency flexibility:

- Allows prospective staff members to provide services to children on a provisional basis (if supervised at all times) while the background checks are being processed (45 CFR 98.43(d)(4)).
- Allows Lead Agencies discretion on procedures in the event that all of the components of a background check are not complete within 45 days (45 CFR 98.43(e)(1)).

# Deadline for Implementation of Background Check Requirements

Requirements, policies, and procedures must be in place to conduct background checks for child care staff members by September 30, 2017.

In addition, the statute allows the Lead Agency to apply for a 1 year extension.

- The extension is separate from the waiver process.
- The Secretary may grant a State a 1 year extension for compliance if the State demonstrates a good faith effort to comply with the background check requirements.

[Section 658H(j)]

# OCC Requests for Comment

Item	Citation
Anticipated impacts of requiring checks for child care staff members of all licensed, regulated, and registered providers and all providers eligible to deliver CCDF services.	45 CFR 98.43 p. 80504, column 2
Whether additional individuals in family child care home should be subject to the background check requirement.	45 CFR 98.43 p. 80504, column 2
Feasibility of a search of the NCIC and the level of burden required by Lead Agencies.	45 CFR 98.43 p. 80505, column 1
How States will meet the cross-State check requirement and respond to other State requests (particularly of child abuse and neglect registries).	45 CFR 98.43 p. 80505, column 3
Whether background check systems for foster or adoptive parents could be used to support cross-State background checks for prospective child care staff members as well.	45 CFR 98.43 p. 80506, column 1



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# How Health and Safety Provisions Apply

# How Do These H&S Provisions Apply?

Provision  (Note: At Lead Agency option, relative providers may be exempted from health and safety requirements.)		PROVIDERS/SETTINGS				INDIVIDUALS			
		Licensed CCDF (FCC & Center)	License-Exempt CCDF (FCC & Center)	CCDF care in the child's home	Licensed non-CCDF FCC & Center	Teachers & Care-givers	Directors	Other non-caregiver staff	Adults with un-supervised access to children
Background Checks		•	•	•	•	•	•	•	•
H & S Training <sup>1</sup> (pre-service/orientation & on-going)		•	•	•		•	•		
Monitoring	Annual Monitoring	• <sup>2</sup>	•	• <sup>3</sup>					
	Pre-inspections	•							
	Posting results of monitoring and inspection reports	•	•	•	•				

<sup>1</sup> Applies to teachers, caregivers, and directors.

<sup>2</sup> Must be unannounced.

<sup>3</sup> NPRM proposes to give Lead agency the option of developing alternate monitoring requirements appropriate to an in-home setting.

# Implementation Dates for States/Territories

	CCDF State & Territory Plan (3-yr) FY 2016-2018				CCDF State & Territory Plan (3-yr) FY 2019-2021		
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>New CCDF Program Requirements</b>	10/01/14 – 9/30/15	10/01/15 – 9/30/16	10/01/16 – 9/30/17	10/01/17 – 9/30/18	10/01/18 – 9/30/19	10/01/19 – 9/30/20	10/01/20 – 9/30/21
Criminal Background Checks	<i>Planning/Implementation</i>			<b>Compliance by 9/30/2017</b>			
Monitoring of Licensing and Regulatory Requirements	<i>Planning/Implementation</i>			<b>Compliance by 11/19/2016</b>			
Posting Results of Monitoring and Inspection Reports (Website)	<i>Planning/Implementation</i>			<b>Compliance by earlier of 11/19/2017 or 1 year after monitoring in place.</b>			



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# Emergency Preparedness and Response

# Emergency Preparedness and Response

The CCDF Lead Agency must demonstrate how it will address the needs of children--including the need for safe child care--before, during, and after emergencies.

Lead Agency level	Child care program/provider level
<ul style="list-style-type: none"><li>• Statewide disaster plans (developed in collaboration with specified entities). 45 CFR 98.16(aa)</li><li>• NPRM adds that these requirements must apply at a minimum to CCDF providers but may apply to all licensed providers (Lead Agency option).</li></ul>	<ul style="list-style-type: none"><li>• Health and safety requirements and training. (45 CFR 98.41(a)(1)(vii))</li></ul>

# Statewide Disaster Plans: Required Components

Law requires:	NPRM would:
<ul style="list-style-type: none"><li>• That the Lead Agency have guidelines for continuation of child care services, which may include the provision of emergency and temporary child care services during a disaster and temporary operating standards after a disaster.</li><li>• Lead Agencies to ensure that child care providers to have in place procedures related to emergency preparedness and response.</li></ul>	<ul style="list-style-type: none"><li>• Clarify that these guidelines must address continuation of child care subsidies.</li><li>• Require coordination of post-disaster recovery of child care services.</li></ul>

# Child Care Provider/Program Level Requirements

The Law requires that:

- Child care programs/providers be trained in emergency preparedness and response.
- Child care programs/providers have in place procedures for the following :
  - Evacuation
  - Relocation
  - Shelter-in-place and lock down
  - Staff and volunteer emergency preparedness training and practice drills
  - Communication and reunification with families
  - Continuity of operations
  - Accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions.



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# Which Proposed Provisions Would Apply to Tribes?

# Tribes

The NPRM establishes three tiers of tribal grantees based on the size of their allocation, with reduced requirements for medium and especially smaller allocations.

Tier	Allocation	# of Tribal Grantees
Tribes with Large Allocations	over \$1 million	18
Tribes with Medium Allocations	\$250,000 to \$1 million	79
Tribes with Small Allocations	under \$250,000	162

[45 CFR 98.80(a)]

# Tribal Requirements

All Tribes providing direct services must:

- Put in place training and health and safety requirements related to specified topics (first aid and CPR, SIDS prevention, etc.) for CCDF providers (98.83(f)(1)(i)).
- Have monitoring requirements for licensed (pre-licensure and annual unannounced inspections) and licensed-exempt (annual inspection) CCDF providers (45 CFR 98.83(d)(2) and 98.83(f)(1)(ii)).
- Have requirements to conduct background checks for child care staff members (including prospective child care staff members) of all licensed/regulated/registered child care providers and all child care providers eligible to deliver CCDF-funded services (45 CFR 98.83(d)(3) and 98.83(f)(1)(iii)).

# Tribal Flexibility

The NPRM allows flexibility for a Tribe to submit in its Plan:

- an alternative monitoring strategy
- an alternative approach to conducting full background checks on other individuals residing in a family child care home



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# The Public Comment Process

# Comment Process

- You may submit comments, identified by Docket Number ACF-2015-0011 and/or RIN number 0970-AC67, by either of the following methods:
  - Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
  - Mail: Submit comments to the Office of Child Care, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, Attention: Office of Child Care Policy Division.

# Comment Process (cont.)

- All submissions received must include the agency name and docket number or RIN number for this rulemaking.
- To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting. Provide:
  - the page number;
  - identify the column; and
  - cite the relevant paragraph/section from the Federal Register document, (e.g., On page 10999, second column, § 98.20(a)(1)(i).).

# Comment Process (cont.)

- All comments received are a part of the public record and will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov), without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information.
- We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.

# Thank you for all you do for children and families.

For additional information and resources on the NPRM, please visit our CCDF Reauthorization webpage at:

<http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization>