



*This chapter is an excerpt from:*

**Implementing the Child Care and Development Block Grant Reauthorization: A Guide for States**

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# Consumer Education and Provider Compliance with Health and Safety Standards

*The CCDBG Act of 2014 includes important provisions to protect the health and safety of children in child care through more consistent standards and monitoring of standards. In addition to minimum health and safety requirements, the law seeks to increase parents' knowledge of child care quality, child development, and other public resources for young children. The new law aims to promote parental choice and consumer education in selecting child care that best suits families' needs, as well as parental involvement in the development and care of children.*

## In This Chapter:

- Consumer Education
- Enforcement of Licensing and Other Regulatory Requirements
- Establishment and Enforcement of Health and Safety Requirements
- Criminal Background Checks

## CONSUMER EDUCATION

### Key Provisions in the Law

#### Consumer Education on Child Care Options and Quality of Child Care

- States must provide parents, the general public, and providers with comprehensive information on the range of child care options, including information about the quality of CCDBG providers (if available).
- If a state has a quality rating system, it must make information about providers' ratings available.
- States must provide information on research and best practices concerning children's development, including social and emotional development, early childhood development, meaningful parent and

family engagement, and physical health and development (particularly healthy eating and physical activity).

- States must provide information on state policies regarding the social-emotional behavioral health of young children (which may include positive behavioral intervention and support models) and policies on expulsion of preschool-age children in early childhood programs receiving CCDBG funds.

#### Information on Child Care Assistance and Other Benefits

- States must provide information on the availability of assistance to help with child care costs.
- States must disseminate information on other assistance that may be available for CCDBG-eligible families, including Head Start and Early Head Start, the Supplemental Nutrition Assistance Program (SNAP), the Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Medicaid and the Children's Health Insurance Program (CHIP), programs under the Individuals with Disabilities Education Act (IDEA), and the Child and Adult Care Food Program (CACFP).

#### Developmental Screenings

- States are required to provide information about how parents can obtain a developmental screening for their child. States are to publicize the resources and services that support access to developmental screenings and referrals to services, including coordinated use of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) through Medicaid and developmental screening under IDEA Section 619 (Preschool Grants) and Part C (Grants for Infants and Families).

### Monitoring and Inspection Reports

- States must make public electronically the results of monitoring and inspection reports for licensed and license-exempt providers receiving CCDBG funds by November 19, 2017.
- Information published electronically by the states must be consumer-friendly, easily accessible to the public, and provider-specific. It must include the results of monitoring and inspection reports, including those due to major substantiated complaints about failure to comply with CCDBG or state child care policies.
- The information must include the number of deaths, serious injuries, and instances of substantiated child abuse that occurred in child care settings annually. It also must include the date of inspection and information on corrective action taken (if any).

### National Toll-Free Hotline and Website

- The Secretary of the U.S. Department of Health and Human Services (HHS) must operate a national toll-free hotline and website for consumer education. The national website must be hosted by [childcare.gov](http://childcare.gov), must be available 24 hours a day, and must offer the widest possible access to services for families who speak languages other than English.
- The website should provide or link to information on CCDBG-eligible child care providers; provider-specific information on quality indicators and compliance with licensing and health and safety requirements (to the extent the information is publicly available and to the extent practicable); referrals to local child care resource and referral (CCR&R) agencies; and state information about child care subsidy programs and other financial support for families.
- Parents must be able to anonymously report CCDBG providers suspected of child abuse or neglect, or violations of health and safety requirements, to the toll-free hotline.

## Implementation Considerations

### Consumer Education

Too often parents lack information about the quality of care or standards that child care providers are required to meet. Low-income parents, in particular, may lack the time or resources to investigate their child care options as they struggle to make ends meet while often working long

and unpredictable hours. CCDBG law has always required states to provide consumer information on child care to parents; the new law strengthens this requirement. As states implement their consumer education strategy, they should use the multiple languages spoken in communities and ensure that information provided is appropriate for the language and literacy levels of parents. In addition to websites, states should consider other means to reach parents, including social media, pediatricians' offices and health clinics, radio and television, local businesses, and internet advertising. States should work to identify effective and trusted partners for sharing information with hard-to-reach groups, such as language-minority communities and immigrant communities. States may also consider collaboration with resource and referral agencies, labor organizations, schools, and others in direct contact with parents and providers.

### Linking Families to Available Programs and Services

**Connecting to Other Early Learning Programs.** Child care assistance is one of multiple child care and early learning programs available in states, including Head Start and Early Head Start, home visiting, and state prekindergarten programs. As part of their strengthened consumer education efforts on child care subsidies, states can also examine ways in which they can connect families applying for or receiving child care subsidies to other programs. For example, more than half of children served in CCDBG-funded child care live in households with incomes below the federal poverty level, making them eligible for Head Start/Early Head Start as well.<sup>1</sup> States could make it possible for eligible families applying for or receiving child care assistance to be referred to Head Start or Early Head Start programs. This takes coordination at the local level to identify programs when slots open up. Administering agencies and resource and referral agencies can also refer families to child care programs participating in new Early Head Start-Child Care Partnerships when spaces are available. Families with eligible preschool-age children could be referred to state-funded prekindergarten in those states that have it. By linking families with other early learning programs, states can provide additional options and allow families to combine programs that operate on a part-day schedule—as is the case with many Head Start and prekindergarten programs—with CCDBG funds to cover the remaining hours of the day while parents work.

**Connecting to Other Public Benefits and Programs.**

Many families receiving child care assistance are also eligible for other public benefit programs, yet there are considerable gaps in program participation among eligible families. A study using 2001 data found that only 5 percent of low-income working families obtained a full work support package of Medicaid/CHIP, SNAP, and child care subsidy.<sup>2</sup>

States should consider not only informing families about the availability of these programs during the eligibility and intake process but also streamlining parents' access to benefits and services. Because these programs often have separate eligibility and renewal processes and requirements, families can find it burdensome to maintain all benefits that are important for children's health and well-being. Requiring independent processes for all programs also creates inefficiencies for administering agencies.

**States can go beyond simply providing information to families, to actively and intentionally connecting families with other benefits and services. For example:**

- States have created online portals allowing clients to screen, apply for, and track multiple benefits, including child care assistance.
- States are aligning eligibility criteria and other policies across benefit programs to reduce the duplicative processes that parents currently experience applying for and retaining Medicaid, SNAP, child care assistance, and other benefits.
- States use data collected from one program, most commonly SNAP, to deem families income-eligible for child care assistance.<sup>3</sup>

The Office of Child Care has encouraged states through guidance to share information, such as common documents and household information, across programs in order to avoid unnecessary duplication on the part of families and agencies.

States should make it a priority to inform parents about CACFP, an important program that provides valuable nutrition assistance to children in child care settings. States should also make every effort to ensure that eligible child care providers are enrolled in CACFP, including license-exempt providers who receive CCDBG funds.

**Additional Programs and Benefits.** In addition to those benefit programs specified in the legislation, states should consider outreach to inform parents and providers about other programs that provide important support for working families, including the Child Tax Credit, the Earned Income Tax Credit, the Child and Dependent Care Tax Credit, and health coverage through the Affordable Care Act.

**Connecting to Developmental Screening.** Early, regular, and reliable screening can help identify problems or potential problems that may threaten a child's developmental foundation and lead to delays and deficits later in childhood. In relaying information to parents about the availability of developmental screenings as now required by CCDBG, states should coordinate efforts with other agencies and entities providing access to screening, such as those administering early intervention services and other programs that have requirements related to developmental screening. Such programs include Head Start, which requires all children to be screened within 90 days of entry; Medicaid, which requires a package of services that includes periodic well-child visits and a variety of developmental and medical screenings for children; and IDEA Section 619 and Part C, which obligate administering agencies to identify any child who may be eligible for services. While most states do not use CCDBG funds to conduct developmental screenings, some have used the CCDBG quality set-aside to build the capacity of providers to conduct developmental screenings.

State early childhood advisory councils, and other cross-sector early childhood collaborations, can play a role in supporting state efforts to better coordinate access to screening and follow-up treatment as necessary.

**In Connecticut, the Office of Early Childhood established the Help Me Grow program, a model that is being adapted in many states nationwide. Connecticut Help Me Grow provides families and community partners, including health professionals and child care providers, with information on the availability of mental health and developmental services, and access to developmental screening to identify mental health issues and developmental delays. Parents have access to information and screening via a toll-free telephone number, and through community partners participating in the collaboration. In addition to screening, Help Me Grow connects families to diagnosis and treatment, and follows up with families to ensure they have accessed the services they need.<sup>4</sup> The Office of Early Childhood also provides parents with information about Help Me Grow and other resources related to developmental screening on its website.<sup>5</sup>**

### Behavioral Health

For some states, reporting on social-emotional behavioral health policies for young children may be new. As states develop policies in this area, they should work across agencies, including the CCDBG Lead Agency and the state education agency. Guidance from the U.S. Departments of Education and HHS recommends that state efforts in this area focus on “prevention, developing and communicating clear behavioral expectations, and ensuring fairness, equity, and continuous improvement” in early childhood settings.<sup>6</sup> The guidance includes resources and information for states. State policies should pay particular attention to strategies for preventing behavioral problems, which can include training providers on developmentally appropriate behavior interventions and increasing access

to comprehensive services, including health and behavioral health services. States should also use data to inform their practices, paying particular attention to providing intervention services, as well as to data on preschool expulsions by age, race, gender, disability, and home language.

### Online Licensing and Monitoring Information

Online sources of licensing and monitoring information available to the public and potential consumers can positively influence parents' choices in caregivers. Low-income parents should have access to information about child care quality and available child care services in their community. The information should be provided in the languages spoken in the state or community and should be easy to understand for parents, including those with low literacy levels. States should also have policies and procedures that will protect providers, by ensuring that the information is accurate and up-to-date and that providers have the opportunity to review and correct information as necessary.

As of 2013, 29 states posted inspection reports or complaint findings on the internet for parents (including 16 that posted full reports and 13 that posted report summaries). Some states allow providers to do an initial review of the posting or respond publicly when complaints or violations are posted.<sup>7</sup> States should consider policies to offer all providers opportunities for corrective action, as well as opportunities to challenge inspection findings with which they disagree.

States may consider requiring all child care providers to report incidents of serious child injuries or death to improve tracking capabilities. States should coordinate efforts with their state's Child Death Review program and the National Center for the Review and Prevention of Child Deaths.<sup>8</sup>

## ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS

### Key Provisions in the Law

#### Inspections of Providers

- By November 19, 2016, states must put policies and practices in place to regulate and monitor all providers offering services under CCDBG, including license-exempt providers.

- Inspections for licensed, regulated, registered, and license-exempt care may be conducted by licensing inspectors or qualified inspectors as designated by the state.<sup>9</sup>

### Licensed Child Care

- The state must certify that it has licensing requirements and describe in its state plan how those requirements are enforced.
- Licensed providers must be inspected at least once prior to licensing to ensure compliance with health, safety, and fire standards.
- Licensed providers must be subject to at least one annual, unannounced inspection for compliance with all child care licensing standards, including health, safety, and fire standards.
- Licensing inspectors must be qualified and receive training in related health and safety requirements and all aspects of the state's licensure requirements.
- States must ensure a sufficient ratio of licensing inspectors or qualified inspectors to child care providers to maintain annual inspections.

### License-Exempt Child Care

- License-exempt providers (except for those related to all children in their care) must be subject to an annual inspection for compliance with health, safety, and fire standards at a time to be determined by the state.
- State plans must include an explanation of how care provided by license-exempt providers does not endanger the health, safety, or development of children.

### Implementation Considerations

Every state currently has child care licensing requirements and mechanisms for enforcement. All states also determine which providers are required to be licensed or regulated and which providers may be legally exempt from licensing. Regular monitoring of child care settings is an important element of protecting children's health and safety in child care, and incorporating unannounced inspections can increase the likelihood that key health and safety regulations are implemented correctly and consistently. Some research indicates that child care providers are more likely to follow licensing regulations at all times when they are more frequently observed for compliance. Research also suggests that monitors are

more likely to observe that best practices are not consistently followed when inspections are unannounced. When information from monitoring visits is coupled with technical assistance, providers can get help complying with standards.<sup>10</sup>

In many states, meeting the new inspection requirements will be costly—particularly if they were not already conducting regular inspections of all subsidized providers, or if a large proportion of families receiving child care assistance choose license-exempt care and this type of care has not been subject to inspection requirements to date. The Oregon Department of Human Services, for example, has estimated that the demand for on-site inspections could increase by 71 percent, requiring the agency to hire at least 8.5 additional staff.<sup>11</sup> In Virginia, the governor proposed a \$2.7 million budget increase to add licensing inspectors to bring the state into compliance with annual inspections for all CCDBG providers.

States may consider various approaches to monitoring, such as reducing the frequency of full compliance reviews for licensed providers and instead adopting abbreviated monitoring systems based on valid methodologies. For license-exempt providers, states will need to consider carefully who appropriate inspectors are (for example, those that have trust in communities) and how to design an on-site inspection to meet both legal requirements and the needs of providers. While increasing the capacity of state monitoring systems will be costly, states should be wary in how they cover those costs. Increasing licensing or inspection fees, for example, would transfer the cost burden to child care providers, potentially limiting their ability to serve families receiving assistance.

### Pre-Licensing and Annual Inspections of Licensed Providers

All state Lead Agencies currently have licensing standards that must be met by licensed providers, and licensors on staff to ensure providers are meeting those requirements. However, many states are not yet meeting the requirements of the reauthorization law because they do not require regular inspections of all types of providers, do not require monitoring visits to be unannounced, and/or do not require these visits to be conducted annually. Even fewer states meet the National Association for Regulatory Administration's (NARA's) recommendation for no fewer

than two inspections, including one unannounced visit, per year for every licensed child care provider.

Fifty states conduct a pre-licensure inspection of child care centers and most states conduct a pre-licensure inspection of family child care homes.<sup>12</sup> In the majority of states, pre-licensure visits are announced. Forty-seven states currently conduct annual or more frequent monitoring visits of licensed centers and 23 states conduct annual or more frequent monitoring visits for licensed family child care providers; some states do not require that these visits be unannounced.<sup>13</sup>

The new law requires that states have a sufficient number of licensing inspectors to fulfill the inspection requirement. Many states' current caseload sizes for licensing staff do not meet this provision. The average caseload size across the country is 103 centers and homes for every one licensing line staff, with caseloads as high as 231 facilities in Vermont.<sup>14</sup> While the CCDBG law does not specify an appropriate caseload size, NARA recommends an average inspector caseload of a maximum of 50 to 60 facilities. For monitoring to be effectively conducted, licensing staff need reasonable caseload sizes that allow them to monitor on a regular basis and promptly investigate complaints against providers.

**If done well, monitoring license-exempt providers, or family friend and neighbor (FFN) providers, can offer an opportunity to bring increased supports to FFN providers that can help promote children's health and safety and increase the quality of care.**

While the provisions of the new law will move states toward best practice in licensing and monitoring, they will require significant additional resources. In order to visit a larger number of providers more frequently, states have turned to various monitoring methods that may be more cost effective. One approach, differential monitoring, allows states to determine the frequency and intensity of

monitoring based on a provider's previous compliance history. Providers that maintain strong records of compliance are allowed fewer periodic inspections. States vary in terms of what factors are reviewed in differential monitoring and how the approach is used to ensure that providers are in compliance with licensing policies.<sup>15</sup>

### **Annual Inspections of License-Exempt Providers**

On-site monitoring is an important part of ensuring safe child care settings. If done well, monitoring license-exempt providers, or family friend and neighbor (FFN) providers, can offer an opportunity to bring increased supports to FFN providers that can help promote children's health and safety and increase the quality of care. However, it also raises a number of challenges different from those involved with monitoring licensed providers—and few states currently monitor license-exempt providers receiving CCDBG funds.<sup>16</sup>

The law allows flexibility for states to determine the most appropriate methods for inspecting license-exempt care, and it explicitly allows states to exclude relative caregivers from the inspection requirements, although it is silent on care provided in children's homes, which few (if any) states currently subject to inspections. Regulations proposed by ACF prior to the passage of the new law would have allowed states to exempt care in children's homes from some or all of the proposed CCDBG health and safety requirements, including inspections; future guidance or regulations should similarly clarify that care in children's homes is exempt from inspections and other health and safety requirements in the new law, as a few states have raised concerns about the prospect of conducting inspections in children's homes.

For license-exempt caregivers that are subject to the requirements, inspections do not have to be unannounced and in fact may need to be announced to ensure that providers and children are present since exempt caregivers, unlike most licensed facilities, may not have regular program hours. Many license-exempt caregivers provide care on the weekends or during evening hours. States will need to consider the implications of having inspectors visit providers when children are present, or not, during non-traditional hours. In some cases, providers may have additional employment during the hours they are not

providing child care and may be difficult to reach to schedule visits. In designing inspection policies and procedures, states should take care not to inadvertently restrict access to license-exempt care by making it difficult for providers to participate in CCDBG.

States should also think about how to use annual inspections as a technical assistance opportunity, rather than solely a compliance review. Inspectors can visit providers equipped with resources that they may need, such as fire extinguishers, child safety plugs, smoke detectors, first aid kits, and other supplies to help providers meet standards, as well as educational materials for children and providers. New York currently includes these resources as part of its inspections of license-exempt providers. In many counties, CCR&R agencies conduct the inspections. If providers are not compliant with health, safety, and fire standards, states should allow providers at least some time to come into compliance prior to restricting a provider from receiving CCDBG funds, unless there is an immediate threat to children's well-being. If inspectors are used to provide technical assistance, states will need to provide specialized training to broaden the inspectors' expertise. In conducting inspections, states may be able to leverage other resources and programs already in contact with license-exempt providers.

Some states, such as California, Illinois, Michigan, New York, and Washington, allow license-exempt child care providers to participate in the federal Child and Adult Care Food Program (CACFP). Because CACFP requires annual unannounced visits to participants, New York has allowed CACFP visits to count as an on-site inspection of license-exempt caregivers. (The state monitors 20 percent of license-exempt providers who are not participating in CACFP.) It should be noted that New York's inspection policies predate the reauthorization and on their own, CACFP monitoring visits would likely not meet the CCDBG statute's requirement to monitor for compliance with health, safety, and fire standards. New Mexico also previously leveraged CACFP inspections to provide a monitoring system for exempt caregivers, but ended the practice due to perceptions of a conflict of interest for monitors.

States that allow license-exempt providers to participate in CACFP may want to examine opportunities to build on CACFP inspections, while recognizing the challenges with this approach. States will need to consider whether CACFP has the capacity for additional monitoring standards, whether adding an inspection role for CACFP could deter providers from participating in the program, and whether that new role would alter the relationship between CACFP monitors and providers.

Similarly, a small number of states and communities have used home visiting as a strategy to bring resources and support to license-exempt caregivers. Because many home-visiting models address health and safety and optimal child development practices, states can consider coordinating with state home-visiting programs and qualifying home visitors to meet the CCDBG inspection requirement. Here, too, states would need to think through the full range of implications and ensure compliance with the statute.

While the law establishes new requirements for license-exempt providers that may prove challenging for states, it is essential that license-exempt providers remain an option for families receiving child care subsidies. License-exempt care is often the preferred option because the family feels comfortable with a friend or family caregiver, or because the caregiver understands the family's language or culture. In many cases, license-exempt care is the family's only option because the parent works night, early morning, or weekend hours and no licensed providers are available during those times or because the parent has variable, unpredictable hours and licensed providers are unable to manage a constantly changing work schedule. It also may be the only option in some communities, particularly in rural areas. In such cases, license-exempt care is the best choice for meeting the law's dual goals of both supporting children's access to high-quality care and parents' employment.

As states collect and report on data from monitoring visits, they should identify areas of recurring non-compliance in order to focus training and technical assistance efforts for child care and licensing staff. In this way, states can use increased on-site monitoring as a tool for continuous quality improvement, not just an enforcement mechanism.

## ESTABLISHMENT AND ENFORCEMENT OF HEALTH AND SAFETY REQUIREMENTS

### Key Provisions in the Law

#### Ratios and Group Size

- The state must determine standards for CCDBG providers that address: group size limits for different ages; appropriate provider-to-child ratios, in terms of age of children; and required qualifications for providers.
- The law prohibits HHS from requiring specific provider-to-child ratios but allows for the provision of guidance to states on this issue.

#### Health and Safety Training

- States must certify that they have established health and safety requirements applicable to child care providers in 10 substantive areas: the prevention and control of infectious diseases (including immunizations); prevention of sudden infant death syndrome and use of safe sleeping practices; administration of medication; prevention of and response to emergencies due to food and allergic reactions; building and physical premises safety; prevention of shaken baby syndrome and abusive head trauma; emergency preparedness and emergency response planning; the handling and storage of hazardous materials and the appropriate disposal of biocontaminants; appropriate precautions in transporting children (if applicable); and first aid and CPR.
- States must ensure that providers receiving CCDBG funds complete minimum pre-service or orientation health and safety training as well as ongoing training. Training must be appropriate to the provider setting and address the 10 identified health and safety areas.
- States may also include training requirements related to nutrition, physical activity, or other areas determined to promote child development or protect children's health and safety.

#### Compliance with Health, Safety, and Child Abuse Reporting Requirements

- States must certify that they have procedures to ensure that providers receiving CCDBG funds comply with all state or local health and safety requirements.
- States must certify that providers comply with child abuse reporting requirements as established in the federal Child Abuse Prevention and Treatment Act.

#### Disaster Planning

- The state plan must include a statewide child care disaster plan to ensure children are safe before, during, and after a major emergency.
- The plan should outline coordination of activities among the state Lead Agency, the licensing agency, local resource and referral organizations, the state resource and referral system, and the State Early Childhood Advisory Council.

### Implementation Considerations

#### Ratios and Group Size

Limiting the number of children per staff is essential for the health and safety of children, particularly should an emergency arise—for example, if young children need to be evacuated quickly in the case of a fire. Having sufficient staff available to provide the supervision and individualized care that children need is also a critical component of high-quality child care. When one caregiver is responsible for only a small number of children, the caregiver is better able to offer one-on-one attention to each child and have more interactions that encourage language and healthy social-emotional development. Research shows that both child development and caregiving quality improves when child-provider ratios and group sizes (i.e., the number of children assigned to a caregiver or team of caregivers in a classroom, or well-defined space within a larger room) in child care settings are smaller.<sup>17</sup>

While states are not required to set provider-to-child ratios or group sizes at any particular level, in setting or adjusting their requirements, they can look to research-based recommendations offered by early childhood experts. Recommended ratios and group sizes vary based on the child care setting and the age of children, recognizing that younger children require more individual attention. For example, *Caring for Our Children*, a joint effort by the American Academy of Pediatrics (AAP), the American Public Health Association (APHA), and the National Resource Center for Health and Safety in Child Care and Early Education, recommends provider-to-child ratios and group sizes for child care centers based on children's ages (see Table 4).<sup>18</sup>

**Table 4. *Caring for Our Children*  
Recommended Ratios and Group Sizes**

Age	Provider-to-Child Ratio	Group Size
≤ 12 months	1:3	6 children
13-35 months	1:4	8 children
3 years	1:7	14 children
4 to 5 years	1:8	16 children
6 to 8 years	1:10	20 children
9 to 12 years	1:12	24 children

Eleven states do not regulate group size for any age groups of children and an additional 10 states do not regulate group size for at least one age group.<sup>19</sup> Seventeen states do not regulate group size for at least one age group of children under five years old.<sup>20</sup> States that adopt new group size requirements or improve existing requirements will need to plan for the changes and offer support and assistance to providers to help them come into compliance with these requirements—for example, by making space modifications or hiring additional staff.

**Health and Safety Training**

The establishment of minimum health and safety training requirements is an important step forward for improving children’s safety in care. Pre-service or orientation training and ongoing training will allow providers to be better prepared to care for children. States should have a plan in place for approving training content and the expertise of training providers to ensure there is accountability and quality in training. In order to take advantage of existing resources and avoid duplication, states should coordinate any new training with existing training opportunities available through CCR&Rs, community colleges, and other entities.

Current state policies on pre-service and ongoing training requirements vary widely. As of 2011, only 17 states required any specific pre-service training before caring for children of any age in a child care center; 48 states had ongoing annual training requirements. Among the 17 states with pre-service training, requirements ranged from having 12 clock hours of training to attaining a Child Development Associate (CDA) plus one year of

experience.<sup>21</sup> CCDBG law allows the pre-service training requirement to be met during an orientation period, as defined by the state. States should allow caregivers to provide care for children during this orientation period while under supervision of someone who has received the required training. Allowing providers to meet the training requirement shortly after they begin caring for children, rather than only allowing them to care for children after completing the training, will be particularly important for license-exempt caregivers, since newly employed parents often rely on them to fill an immediate need for child care.

As states create access to training opportunities for providers, they should consider how to overcome barriers that current providers may face, including cost, limited English proficiency, and inability to take time off of work to attend classes. Increasing the education levels of the provider workforce also requires addressing the needs of non-traditional students who must juggle work and family responsibilities. Training should be accessible for providers through many avenues—including online and community based—and the training should articulate to credentials and degrees. To the extent practicable, trainings should be offered in multiple languages.

**Compliance with Health and Safety Requirements**

The new law specifies health and safety requirements for CCDBG-funded providers. While new requirements apply to all CCDBG providers, states have the option of exempting individuals caring only for related children from some or all CCDBG health and safety requirements. Prior to reauthorization, as of 2012, 19 states reported requiring relative CCDBG providers to comply with all health and safety requirements, while 26 states required compliance with a subset of health and safety requirements.<sup>22</sup>

**Disaster Preparedness**

Maintaining the safety of children in the event of a disaster or emergency is of critical importance. Following a large disaster or emergency, the need for emergency child care services or the rebuilding of child care facilities in a community can be an important priority. The HHS Administration for Children and Families (ACF’s) Office of Child Care (OCC) has offered guidance to states in emergency preparedness and response (see additional resources at the end of this chapter).

## CRIMINAL BACKGROUND CHECKS

### Key Provisions in the Law

#### Background Check Requirements

- States must require a comprehensive set of criminal background checks for all child care providers and their staff. This provision is not limited to CCDBG providers. Persons subject to background checks include any individual employed by a child care provider or whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider.
- Required checks for every staff person include searches of state-based criminal and sex offender registries and child abuse and neglect registries in the state in which he or she resides, as well as any state where the individual has resided in the past five years; a Federal Bureau of Investigation (FBI) fingerprint check using the Integrated Automated Fingerprint Identification System; and a National Sex Offender Registry check.
- Child care staff must undergo this comprehensive criminal background check at least every five years.
- Prospective staff who have undergone the check while previously employed with another provider within the past five years do not need a new check to start working with a new provider.<sup>23</sup>
- Any provider who employs a staff member for whom the checks described above reveal a disqualifying conviction (or who refuses to consent to the criminal background check or knowingly makes a materially false statement in connection with such criminal background check) will be barred from receiving CCDBG assistance. Disqualifying convictions include specific felonies, as well as violent misdemeanors involving children.<sup>24</sup>
- For staff members employed prior to the enactment of the reauthorization law, providers must request background checks by September 30, 2017.
- States must meet all background check requirements by September 30, 2017. A one-year extension may be granted if the state demonstrates a good faith effort to comply with the requirements. HHS is authorized to withhold 5 percent of CCDBG funds from states for non-compliance with background check requirements.

#### Required Protections for Providers

- A state must complete a background check within 45 days of the request for the check.
- States must have policies and procedures in place for individuals to appeal the findings of the criminal background checks.
- States completing background checks may disclose to the provider only whether the staff member (or potential staff member) is eligible for employment, without revealing any disqualifying crime. If the staff member is ineligible, however, the state must provide the individual with a notice identifying the specific disqualifying crime(s), as well as information about the process to appeal the determination. Only convictions may be considered disqualifying, not arrests.
- States are permitted to charge providers a fee for costs associated with processing applications and administering a criminal background check but are prohibited from charging more than the actual cost to the state.

#### Implementation Considerations

The CCDBG Act of 2014 includes important provisions to strengthen criminal background check requirements for child care providers. The provisions apply to all licensed, regulated, or registered child care providers (including child care centers and family child care homes) and all providers receiving CCDBG funds, excluding relative caregivers.

To ensure effective implementation of these provisions to protect children's safety, states will need to examine the steps involved in carrying out the background checks and the costs entailed. States will first need to determine how the new background check requirements compare to the types of background checks they currently require and the types of staff to which these requirements apply. While all states currently require at least some background checks, as of 2013, only 13 states mandated five comparable background checks for center-based programs, and only 14 states had those requirements for family child care.<sup>25</sup>

The additional costs entailed by the new background checks include costs to develop a process for the background checks and to run the checks; infrastructure for gathering information required for the background checks; and resources for coordinating among different agencies responsible for different background checks. States can

look to other states that already require more extensive background checks (though not in accordance with the new law) in order to begin to estimate the total costs of the new requirements. For example, in California, a comprehensive background check policy that includes three state sources and FBI fingerprint checks costs approximately \$124 for each individual. It may be paid by the provider, the child care agency, the parent, or another party.<sup>26</sup>

In assessing the full costs and developing comprehensive processes for administering the background checks, states will need to recognize that some cases may be particularly complicated. For example, many states do not currently check criminal history from other states, which requires significant coordination among entities from different states and requires the applicant to self-disclose the states he or she has previously lived in. States examining the background check requirements have observed that such interstate checks are also redundant with a national FBI check—but the reauthorization law nonetheless requires both.

States will need to design procedures to ensure background checks are completed within 45 days of the request. Obtaining results of background checks quickly is crucial for parents who need child care immediately in order to start a job or an education or training program, as well as for providers waiting to be eligible for payments. Some states permit providers to care for children provisionally while background checks are being completed. For example, in some cases of immediate need, providers in California can provide care for a designated period of time while awaiting background check results and in some cases may receive retroactive pay for the time when services are requested and provided, once the background checks are completed. States should consider allowing staff to work under the supervision of an employee who has been cleared by a background check while awaiting background check results.

States must also develop an appeals process that can be completed in a reasonable timeframe. Individuals must have an opportunity to challenge the accuracy or completeness of background checks and ensure that erroneous results do not impair their employment

prospects. FBI records in particular are often incomplete and do not include the final disposition of an individual's case, yet in many cases this missing information is favorable to job seekers—making it particularly important that affected individuals have an opportunity to show, for example, that an arrest did not result in conviction or was reduced to a lesser offense.<sup>27</sup>

States should also offer the individualized review process authorized by the law, during which they can determine whether a prospective employee who has been convicted of a disqualifying drug-related offense can be deemed eligible for employment despite that record. The reauthorization law specifies that this review process must be consistent with Title VII of the Civil Rights Act of 1964; states should consult the U.S. Equal Employment Opportunity Commission's guidance on the consideration of criminal records in employment decisions to ensure compliance with Title VII's prohibition against employment discrimination (see additional resources).

## Additional Resources

### Connecting Families with Benefits and Services

- CLASP and Urban Institute, *Confronting the Child Care Eligibility Maze: Simplifying and Aligning Child Care with Other Work Supports*, <http://www.clasp.org/resources-and-publications/publication-1/WSS-CC-Paper.pdf>.
- U.S. Department of Health and Human Services, *Birth to 5: Watch Me Thrive*, <http://www.acf.hhs.gov/programs/eecd/child-health-development/watch-me-thrive>.
- CLASP, *First Steps for Early Success: State Strategies to Support Developmental Screening in Early Childhood Settings*, <http://www.clasp.org/resources-and-publications/publication-1/State-Strategies-to-Support-Developmental-Screening-in-Early-Childhood-Settings.pdf>.
- U.S. Departments of Education and Health and Human Services, *Policy Statement On Expulsion And Suspension Policies In Early Childhood Settings*, [http://www.acf.hhs.gov/sites/default/files/eecd/expulsion\\_suspension\\_final.pdf](http://www.acf.hhs.gov/sites/default/files/eecd/expulsion_suspension_final.pdf).

### Emergency Preparedness

- ACF Information Memorandum (CCDF-ACF-IM-2011-01), *Framework For Developing Child Care Emergency Preparedness And Response Plans, Attachment A: Emergency Preparedness and*

*Response Resources for Child Care*, <http://www.acf.hhs.gov/programs/occ/resource/information-memorandum-ccdf-acf-im-2011-01>.

### Licensing and Inspections

- Child Care Aware of America, *We Can Do Better—2013 Update: Ranking of State Child Care Center Regulations and Oversight*, <http://www.naccrra.org/node/3025>.
- Office of Child Care's National Center on Child Care Quality Improvement and the National Association for Regulatory Administration, *Trends in Child Care Center Licensing Regulations and Policies for 2011*, [http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999\\_1208\\_Center\\_Licensing\\_Trends\\_Brief\\_FINAL.pdf](http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999_1208_Center_Licensing_Trends_Brief_FINAL.pdf).
- CLASP, *Charting Progress for Babies in Child Care: Expand Monitoring and Technical Assistance*, [http://www.clasp.org/babiesinchildcare/recommendations/healthy-and-safe-environments-in-which-to-explore-and-learn/expand-monitoring-and-technical-assistance/file/cp\\_rationale9.pdf](http://www.clasp.org/babiesinchildcare/recommendations/healthy-and-safe-environments-in-which-to-explore-and-learn/expand-monitoring-and-technical-assistance/file/cp_rationale9.pdf).
- CLASP, *Extending Home Visiting to Kinship Caregivers, and Family, Friend, and Neighbor Caregivers*, <http://www.clasp.org/resources-and-publications/files/homevisitingkinshipffn.pdf>.
- CLASP, *Home Away From Home: A Toolkit for Planning Home Visiting Partnerships with Family, Friend, and Neighbor Caregivers*, <http://www.clasp.org/resources-and-publications/files/Home-Away-from-Home.pdf>.

### Background Checks

- Child Care Aware of America, *Background Checks*, <http://www.naccrra.org/about-child-care/state-child-care-licensing/background-checks>.
- U.S. Equal Employment Opportunity Commission, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964*, [http://www.eeoc.gov/laws/guidance/upload/arrest\\_conviction.pdf](http://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf).

- 1 U.S. Department of Health and Human Services, Administration for Children and Families, *101: Early Head Start-Child Care Partnerships*, 2014, [https://www.acf.hhs.gov/sites/default/files/ece/ece\\_ccp\\_101\\_final\\_hhsacf\\_logo\\_2014.pdf](https://www.acf.hhs.gov/sites/default/files/ece/ece_ccp_101_final_hhsacf_logo_2014.pdf).
- 2 Gregory Mills, Jessica F. Compton, and Olivia Golden, *Assessing the Evidence about Work Support Benefits and Low-Income Families*, Urban Institute, 2011, <http://www.urban.org/UploadedPDF/412303-Work-Support-Benefits.pdf>.
- 3 For more on all of these policies, see Gina Adams and Hannah Matthews, *Confronting the Child Care Eligibility Maze: Simplifying and Aligning Child Care with Other Work Supports*, Urban Institute and CLASP, 2013, <http://www.clasp.org/resources-and-publications/publication-1/WSS-CC-Paper.pdf>.
- 4 More information about this initiative is available at United Way of Connecticut, *Help Me Grow*, <http://www.ctunitedway.org/CDI/HelpMeGrow.html>.
- 5 Connecticut Office of Early Childhood, <http://www.ct.gov/oec/cwp/view.asp?a=4546&q=535676>.
- 6 U.S. Department of Health and Human Services and U.S. Department of Education, *Policy Statement On Expulsion And Suspension Policies In Early Childhood Settings*, 2014, [http://www.acf.hhs.gov/sites/default/files/ece/expulsion\\_suspension\\_final.pdf](http://www.acf.hhs.gov/sites/default/files/ece/expulsion_suspension_final.pdf).
- 7 National Association for Regulatory Administration, *The 50-State Child Care Licensing Study: 2011-2013 Edition*, 2013, [http://www.naralicensing.org/Resources/Documents/2011-2013\\_CCLS.pdf](http://www.naralicensing.org/Resources/Documents/2011-2013_CCLS.pdf).
- 8 For more information, see The National Center for the Review and Prevention of Child Deaths, <http://www.childdeathreview.org>.
- 9 The law specifies that inspection requirements apply to licensed, regulated, and registered providers. States differ with respect to which providers are required to be licensed, regulated, registered, or exempt from licensing. For purposes of this guide, references to licensed providers include those regulated and registered providers to whom the law applies.
- 10 Stephanie Schmit and Hannah Matthews, *Better for Babies: A Study of State Infant and Toddler Child Care Policies*, CLASP, 2013, <http://www.clasp.org/docs/BetterforBabies2.pdf>; Teresa Lim and Hannah Matthews, *Charting Progress for Babies in Child Care: Expand Monitoring and Technical Assistance*, CLASP, 2011, [http://www.clasp.org/babiesinchildcare/recommendations/healthy-and-safe-environments-in-which-to-explore-and-learn/expand-monitoring-and-technical-assistance/file/cp\\_rationale9.pdf](http://www.clasp.org/babiesinchildcare/recommendations/healthy-and-safe-environments-in-which-to-explore-and-learn/expand-monitoring-and-technical-assistance/file/cp_rationale9.pdf).
- 11 Anna Staver, "Audit Ranks Oregon Low for Child Care Affordability," *Statesman Journal*, December 4, 2014, <http://www.statesmanjournal.com/story/news/politics/2014/12/03/audit-ranks-oregon-low-child-care-affordability/19866031/>.
- 12 This total includes the District of Columbia which is counted as a state for the purposes of this guide. National Association for Regulatory Administration, *The 50-State Child Care Licensing Study: 2011-2013 Edition*, 2013, [http://www.naralicensing.org/Resources/Documents/2011-2013\\_CCLS.pdf](http://www.naralicensing.org/Resources/Documents/2011-2013_CCLS.pdf).
- 13 National Association for Regulatory Administration, *The 50-State Child Care Licensing Study: 2011-2013 Edition*, 2013, [http://www.naralicensing.org/Resources/Documents/2011-2013\\_CCLS.pdf](http://www.naralicensing.org/Resources/Documents/2011-2013_CCLS.pdf).
- 14 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Trends in Child Care Center Licensing Regulations and Policies for 2011, 2013*, [http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999\\_1208\\_Center\\_Licensing\\_Trends\\_Brief\\_FINAL.pdf](http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999_1208_Center_Licensing_Trends_Brief_FINAL.pdf).

- 15 For more information, see U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Contemporary Issues in Licensing: Monitoring Strategies for Determining Compliance - Differential Monitoring, Risk Assessment, and Key Indicators*, 2014, [https://childcareta.acf.hhs.gov/sites/default/files/1408\\_differential\\_monitoring\\_final\\_1.pdf](https://childcareta.acf.hhs.gov/sites/default/files/1408_differential_monitoring_final_1.pdf).
- 16 A 2005 survey of states found that six states made home visits to license-exempt providers receiving subsidies. Georgia, Idaho, and New Jersey required caregivers to agree to one home inspection. Louisiana made one unannounced home visit annually. Arizona required two annual visits, and Arkansas required three annual visits. Nevada required home visits for non-relative caregivers, during which it provided health and safety kits. Toni Porter and Shannon M. Kearns, *Supporting Family, Friend and Neighbor Caregivers: Findings From a Survey of State Policies*, 2005, <http://www.researchconnections.org/childcare/resources/4790/pdf>.
- 17 See U.S. Department of Health and Human Services, National Institutes of Health, National Institute of Child Health and Human Development, *The NICHD Study of Early Child Care and Youth Development: Findings for Children Up to Age 4 ½ Years*, 2006, [https://www.nichd.nih.gov/publications/pubs/documents/seccyd\\_06.pdf](https://www.nichd.nih.gov/publications/pubs/documents/seccyd_06.pdf).
- 18 American Academy of Pediatrics, American Public Health Association, and National Resource Center for Health and Safety in Child Care, "Standard 1.1.1.2: Ratios for Large Family Child Care Homes and Centers," *Caring for Our Children, Third Edition*, 2011, <http://cfoc.nrckids.org/StandardView/1.1.1.2>. See also "Standard 1.1.1.1: Ratios for Small Family Child Care Homes," *Caring for Our Children, Third Edition*, 2011, <http://cfoc.nrckids.org/StandardView/1.1.1.1>.
- 19 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Trends in Child Care Center Licensing Regulations and Policies for 2011, 2013*, [http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999\\_1208\\_Center\\_Licensing\\_Trends\\_Brief\\_FINAL.pdf](http://www.qrisnetwork.org/sites/all/files/resources/Debi%20Mathias/2012-12-01%2007:08/999_1208_Center_Licensing_Trends_Brief_FINAL.pdf).
- 20 Child Care Aware of America, *We Can Do Better: Child Care Aware® of America's Ranking of State Child Care Center Regulations and Oversight*, 2013, [http://www.naccrra.org/sites/default/files/default\\_site\\_pages/2013/wcdb\\_state\\_tables\\_april\\_17\\_final.pdf](http://www.naccrra.org/sites/default/files/default_site_pages/2013/wcdb_state_tables_april_17_final.pdf).
- 21 U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, National Center on Child Care Quality, *Minimum Preservice Qualifications and Annual Ongoing Training Hours for Center Teaching Roles in 2011, 2013*, [https://childcareta.acf.hhs.gov/sites/default/files/542\\_1305\\_qualstchmst\\_2011.pdf](https://childcareta.acf.hhs.gov/sites/default/files/542_1305_qualstchmst_2011.pdf).
- 22 CLASP review of 2012-2013 state CCDF plans.
- 23 Staff must have been employed by the prior provider within the previous 180 days.
- 24 The complete list includes: murder; child abuse or neglect; a crime against children, including child pornography; spousal abuse; a crime involving rape or sexual assault; kidnapping; arson; physical assault or battery; a drug-related offense committed within the preceding five years; a violent misdemeanor committed as an adult against a child including child abuse, child endangerment, or sexual assault; or a misdemeanor involving child pornography.
- 25 Child Care Aware of America, *Background Checks*, "Tables" available at <http://www.naccrra.org/about-child-care/state-child-care-licensing/background-checks>; Child Care Aware of America, unpublished data, updated November 2013 (on file with authors). The data reflects whether the states had the following elements in their background check systems: federal and state fingerprint checks, criminal record check, child abuse registry, and sex offender registry.
- 26 E-mail communication from Marguerite Ries, California Department of Education, January 15, 2015. For more information, see <http://trustline.org>.
- 27 See Madeline Neighly and Maurice Emsellem, National Employment Law Project, *Wanted: Accurate FBI Background Checks for Employment (9-10)*, 2013, <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>.