

OCFS FAQ for Licensed/Registered Providers on the New Required Comprehensive Background Clearances

Updated 9/25/2019

1. What is this about?

Due to a change in the law, all providers, employees and volunteers must complete a comprehensive background clearance by September 30, 2020. The law also requires comprehensive background clearances be completed no less than once every five years.

2. What is included in the comprehensive background clearance?

- a. New York State criminal history record check with the Division of Criminal Justice Services
- b. National criminal record check with the Federal Bureau of Investigation (FBI)
- c. National Sex Offender Registry check with the National Crime and Information Center
- d. New York State Sex Offender Registry check
- e. New York Statewide Central Register of Child Abuse and Maltreatment (SCR) check
- f. New York State Justice Center Staff Exclusion List (SEL) check
- g. For any individual who resided outside New York State in the past five years, the comprehensive background clearance also includes:
 - i. Criminal history repository for the state(s) of residence
 - ii. Sex offender registry for the state(s) of residence
 - iii. Child abuse or neglect repository for the state(s) of residence

3. How much will this cost me?

For any new or prospective staff, there is a \$25 fee to complete the SCR check. No other fees are assessed for new staff. There are no fees at all for any part of the comprehensive background clearance for existing staff and providers who have met the previous background check standards.

4. I have already been cleared by OCFS to work in a day care program and have been working in this program for years. Do I need to be “re-cleared” under the new comprehensive background check standard?

Yes, you will need to go through the comprehensive background clearance process before September 30, 2020. The requirement to complete the comprehensive background clearance for current/existing operators, directors, employees, volunteers, and household members 18 years of age and older is effective October 1, 2019. However, all such persons should follow the schedule released by OCFS for such clearances.

5. What about my current job at a day care program? Can I continue to work?

Yes. Existing provider/employees may continue to work in their current roles at their current program because the existing background checks are still valid. However, those persons will need to schedule an appointment for the criminal history fingerprinting as per the OCFS schedule and complete all other requirements of the comprehensive background clearances at the same time.

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- 6. When do I need to complete the new comprehensive background clearance requirement?**
 - a. Are you a NEW applicant/employee/volunteer on or after September 25, 2019?**
If so, you must complete the comprehensive background clearance BEFORE providing child care in any setting.
 - b. Are you an existing provider/employee/volunteer who previously completed all the New York State OCFS required background checks prior to October 1, 2019?**
If so, existing operators, directors, employees, volunteers and household members age 18 or older must schedule a fingerprinting appointment within seven days of their next birthday (before or after) and complete all other requirements of the comprehensive background clearance at the same time.
- 7. Can I allow new staff to start at my program without the comprehensive clearance completed if I make sure they are always supervised?**
No. The program must receive written notification that the individual is eligible BEFORE the individual beginning at the program. The only exception is a conditional approval.
- 8. What is conditional approval and who can be conditionally approved?**
Conditional approval only applies to individuals (new and existing) who indicate on form OCFS-6001 that they reside or have resided outside of New York State in the last five (5) years.
To grant conditional approval, these individuals must successfully complete the FBI check and all other New York State background check requirements. During conditional approval, the individual cannot be left unsupervised with children.
- 9. I work for multiple providers. Does that mean I will need to have this clearance multiple times?**
Once an individual successfully completes the comprehensive background clearance requirements within New York State, their fingerprints can be associated ("waived") to another child care program within New York State. However, anytime you join a new program, a SCR and SEL check must be completed.
- 10. Can I challenge a determination by OCFS that I cannot work at a program due to my criminal history?**
Yes. Any person who has a discretionary crime appearing as part of their criminal background check has a right to a hearing if that crime has resulted in a determination that the individual is not able to be a child care operator, director, employee or volunteer in a child care program.
- 11. What happens if OCFS tells us that staff has failed to show up for their comprehensive background clearance fingerprinting?**
For the first year of implementation of the new comprehensive background clearances, OCFS is focusing on the importance of providing technical assistance to child care programs and supporting efforts to come into compliance with the new requirements. This means programs should expect to hear from their licensors and registrars on any compliance concerns and staff will be working with the program to overcome barriers to compliance.

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12. Are there additional regulatory changes we need to know about?

Yes. The new regulations issued in September 2019 make several changes. Additional guidance will be forthcoming. The revised regulations can be found on our website at:

<https://ocfs.ny.gov/main/childcare/news/article.php?idx=1985> OCFS will be providing technical assistance on these changes over the course of the coming year. Programs can also reach out to their licensor or registrar if they have questions.

13. Who can I go to for more information about these requirements and how it affects me or my program?

Please reach out to the licensors or registrars for additional information or to report any issues with the comprehensive background clearance process. OCFS has also posted this document, videos on the background check process and copies of the letters regarding implementation sent to providers on our website. Please go to <https://ocfs.ny.gov/main/> for additional resources.