ADMINISTRATION FOR CHILDREN & FAMILIES

Child Care and Development Fund

FINAL RULE:

Health and Safety

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Reauthorization

- Congress reauthorized the Child Care and Development Block Grant (CCDBG) Act of 2014.
- President Obama signed it into law on November 19, 2014.
- Provided an **historic re-envisioning** of the Child Care and Development Fund (CCDF) program

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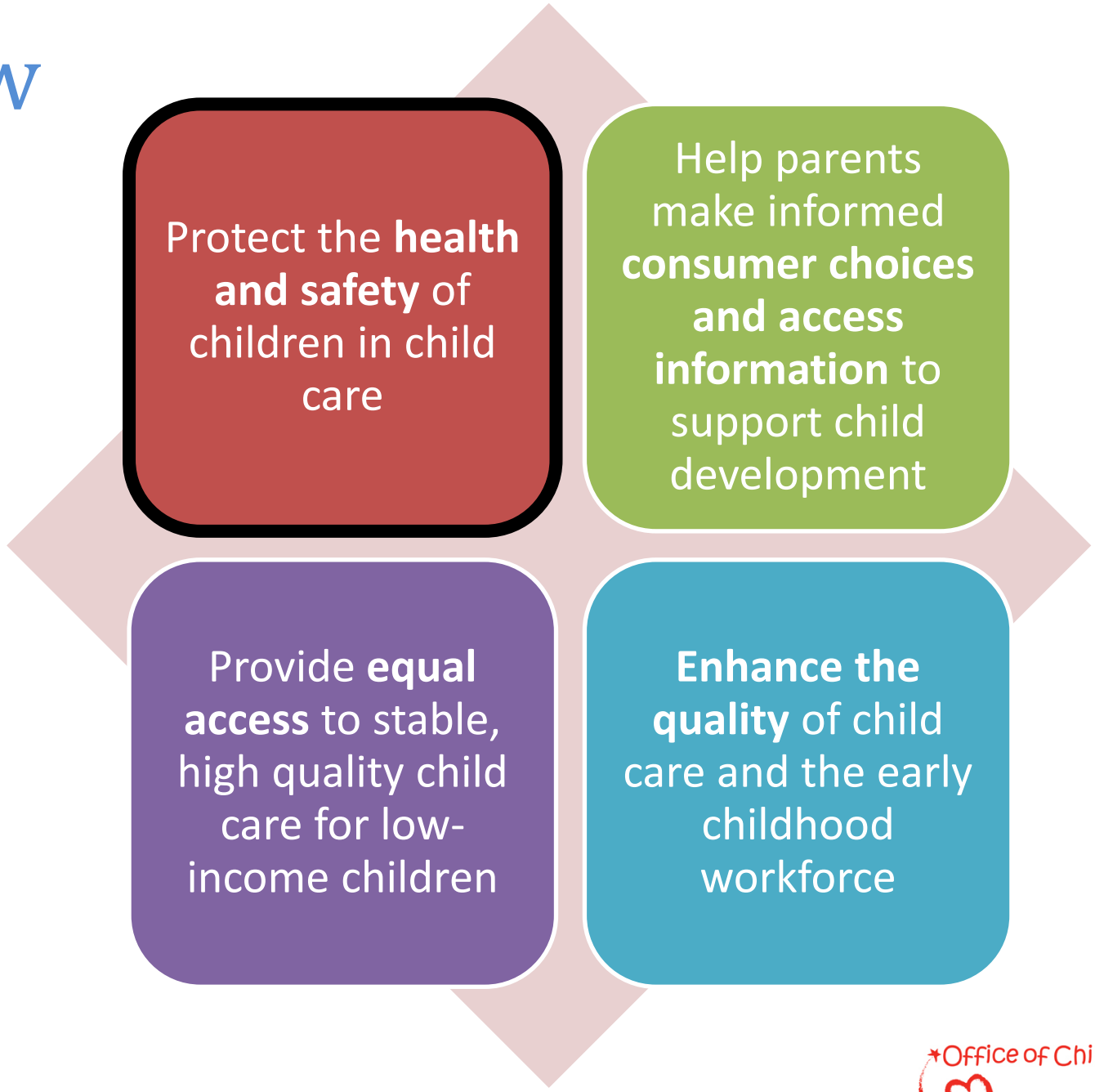
Overview

Addresses the Law in 4 major topical areas:



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

Rationale for Licensing Exemptions

The law requires Lead Agencies to:	The Final Rule:
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.	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 Final Rule:
• Requires Lead Agencies put in place training and health and safety requirements related to specified topics (pediatric first aid and CPR, SIDS prevention, etc.) for CCDF providers. • Allows Lead Agencies to exclude relative providers from health and safety requirements (consistent with current regulations).	• 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)) • Defines pre-service or orientation as within three months of starting. (45 CFR 98.44(b)) • Includes all caregivers, teachers, and directors. (45 CFR 98.44(b)(2)) • Names Caring for Our Children Basics as a baseline for standards. • Specifies that H&S requirements should be appropriate to the age of the children. (45 CFR 98.41(a))

Monitoring

By November 2016, CCDBG requires:

- **Licensed providers** have pre-licensure and annual unannounced visits
- **Licensed-exempt providers** have an annual visit

States must ensure:

- licensing inspectors are qualified
- ratio of inspectors to providers is sufficient to inspect in timely manner

Monitoring Implementation Options

The Final Rule:

- Specifies that monitoring must cover the specified health & safety topics. (45 CFR 98.42(a))
- Allows use of differential monitoring or a risk-based approach for annual inspections. (45 CFR 98.42(b)(2)(iv)(A))
- Encourages coordination with other monitoring entities (e.g., licensing, QRIS, Head Start, CACFP) to meet monitoring requirements. (45 CFR 98.42(b)(2)(iii))
- Allows the option of developing alternative monitoring requirements for care in the child's home. (45 CFR 98.42(b)(2)(iv)(B))

Reporting Serious Injury and Death

The law requires Lead Agencies to:	The Final Rule:
• 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.	• Requires 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)) • Requires 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))

Child Abuse and Neglect

The law requires Lead Agencies to:	The Final Rule:
• 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).	• Clarifies 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)) • Clarifies 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 States to:

- Establish group size limits for specific age populations and appropriate child-staff ratios; and
- Include required qualifications for caregivers, teachers, and directors.

The Final Rule:

- Clarifies that these standards should strengthen the caregiver and child relationship and provide for the safety and developmental needs of the children served. (45 CFR 98.41(d))

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[1] (pre-service/orientation & on-going)		●	●	●	
Monitoring	Annual Monitoring	●[2]	●	●[3]	
	Pre-inspections	●			
	Posting results of monitoring and inspection reports	●	●	●	●

[1] Applies to teachers, caregivers, and directors.
[2] Must be unannounced.
[3] The Final Rule allows Lead Agencies the option of developing alternate monitoring requirements appropriate to an in-home setting.

Criminal Background Checks

Criminal Background Checks

The law requires comprehensive background checks be completed (by Sept. 30, 2017) for child care staff members of:

- All licensed, regulated, or registered providers; and
- All providers eligible to deliver CCDF-funded services.

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Who Needs a Background Check?

A "child care provider" means:	A "child care staff member" means:
A center-based child care provider, family child care provider, or another provider of child care services for compensation on a regular basis that: • is not related to all the children served; and • is licensed, regulated, or registered under State law or receives CCDF funds. 45 CFR 98.43(a)(2)(i)	An individual (other than an individual who is related to all children for whom child care services are provided): • who is employed by a child care providers for compensation; or • whose activities involve the care or supervision of children for a child care provider or unsupervised access to children; or • ***any individual residing in a family child care home age 18 and older.*** 45 CFR 98.43(a)(2)(ii)

Components of a Criminal Background Check

The Final Rule defines a comprehensive background check to include:

- An FBI fingerprint check using Next Generation Identification
- A search of the National Crime Center's National Sex Offender Registry (after ACF and the FBI release guidance)
- 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 (with fingerprints required in the State of residence);
  - State sex offender registry; and
  - State-based child abuse and neglect registry or database.

  [45 CFR 98.43(b)]

Interstate Checks

- Requires timely responses to requests from other States, Territories, and Tribes in order to accommodate the 45 day timeframe. (45 CFR 98.43(a)(1)(iii).
- Policies and procedures must be posted on the State websites, including the process of submitting a background check request. (45 CFR 98.43(g).
- Allows Lead Agencies discretion on procedures in the event that all of the components of a background check are not complete within 45 days.

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Prospective Staff Members

- Prospective staff members may begin work provisional basis (if supervised at all times) after completing:
  - FBI fingerprint check ***OR***
  - State criminal repository using fingerprints in the State of residence

[45 CFR 98.43(d)(4)]

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Appeals Process

The final rule adds more worker protections into the appeals process:

- Staff members who are ineligible must be given information on the opportunity along with information on each disqualifying crime (45 CFR 98.43(e)(2)(ii)).
- State is responsible for verifying the accuracy of the information challenged (45 CFR 98.43(e)(3)(iii)).
- Staff member will be given a written notice of the decision (45 CFR 98.43(e)(3)(v)).

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.

- 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.

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	Direc-tors	Other non-caregiver staff	Adults with un-supervised access to children
Background Checks		•	•	•	•	•	•	•	•
H & S Training[1] (pre-service/orientation & on-going)		•	•	•		•	•		
Monitoring	Annual Monitoring	•[2]	•	•[3]					
	Pre-inspections	•							
	Posting results of monitoring and inspection reports	•	•	•	•				

[1] Applies to teachers, caregivers, and directors.
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Implementation Dates for States/Territories

New CCDF Program Requirements		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
	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	*Planning/Implementation*			**Compliance by 9/30/2017**			
Monitoring of Licensing and Regulatory Requirements	*Planning/Implementation*			**Compliance by 11/19/2016**			
Posting Results of Monitoring and Inspection Reports (Website)	*Planning/Implementation*			**Compliance by earlier of 11/19/2017** or 1 year after monitoring in place.			

Tribal CCDF Framework

A Tiered Approach to Tribal Requirements

The final rule establishes 3 tiers of tribal grantees based on the size of their allocation, with reduced req. for medium and smaller allocations.

- Large Allocations: over $1 million (34 Tribes)
- Medium Allocations: $250,000 to $1 million (72 Tribes)
- Small Allocations: under $250,000 (153 Tribes)

[45 CFR 98.80(a)]

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How do the Health and Safety Requirements Apply to Tribes?

- All Tribes are subject to the health and safety requirements, including the background check and monitoring requirements.
- The Final Rule allows the flexibility to:
  - Propose an alternative monitoring strategy in the CCDF Plan (45 CFR 98.83(d)(2))
  - Propose an alternative background check strategy in the CCDF Plan (45 CFR 98.83(d)(3))

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Reading Time

- Licensing: 45 CFR 98.40
- Health and Safety Requirements: 45 CFR 98.41
- Monitoring: 45 CFR 98.42
- Background Checks: 45 CFR 98.43
- Tribes: 45 CFR 98.83(d)(2) and (3)

Questions & Additional Information

For additional information and resources on the Final Rule, please visit:

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

To submit questions, please email:
CCDF.reauthorization@acf.hhs.gov

Thank you for all you do for children and families!

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