

Virginia Regulatory Town Hall Agency Background Document Proposed Regulation

Agency Name: Department of Social Services
VAC Number: 22 VAC 15-051-10 et seq.
Regulation Title: Minimum Standards for Background Clearances for Licensed Child Day Centers
Action Title: Proposed
Date:

Summary:

The regulation establishes background clearances for criminal convictions and founded complaints of child abuse and neglect for licensed child care centers and child care center systems. It prohibits the licensing of child care centers or child care center systems when designated persons associated with the center or system have certain criminal convictions or have ever been the subject of a founded complaint of child abuse or neglect. Centers and systems are prohibited from using a person for certain roles if the person has certain criminal convictions or has ever been the subject of a founded complaint of child abuse or neglect.

Background clearances for other child welfare agencies are in the Minimum Standards for Background Clearances for Child Welfare Agencies, 22 VAC 40-191-10 et seq.

The Regulation for Criminal Record Checks for Child Welfare Agencies, 22 VAC 15-050-10 et seq. is being repealed. The revisions required to amend 22 VAC 15-050-10 et seq. were so extensive that it is more efficient to repeal the existing regulation and promulgate a new regulation. The proposed new regulation incorporates significant *Code of Virginia* changes mandated by the 1998 General Assembly amendments, separating licensed child day center regulations, organizational changes requested during public comment, content changes requested during public comment, and clarifications.

Basis:

Statutory Authority: §§ 63.1-198 through 63.1-199 of the *Code of Virginia*

The Child Day-Care Council has the statutory authority to promulgate this regulation based on *Code of Virginia* section 63.1-202. The Child Day-Care Council is authorized to regulate the following §§ 63.1-198; 63.1-198.1; and 63.1-199 of the *Code of Virginia*. These Code sections establish background clearances for criminal convictions and founded complaints of child abuse or neglect and set prohibitions if a person is found to have certain criminal convictions or have ever been the subject of a founded complaint of child abuse or neglect.

Section 63.1-198 applies to applicants for licensure. Section 63.1-199 applies to issuing or refusing a license. Section 63.1-198.1 applies to employees and volunteers of licensed child day centers and licensed child day center systems.

Purpose:

The *Code of Virginia* mandates background clearances for criminal convictions and founded complaints of child abuse or neglect for licensed child day centers and systems. The Code prohibits operating, volunteering, or working at a center or system for persons who have certain convictions or a founded complaint of child abuse or neglect. This is to protect children who are in the care of licensed child day centers. Persons with convictions involving crimes against minors, violence and sex offenses or with a founded complaint of child abuse or neglect may endanger and harm children.

The agency has decided to promulgate a new regulation titled Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. for the following reasons:

- Significant changes to the *Code of Virginia* were mandated by the 1998 General Assembly.
- An emergency regulation, Regulation for Criminal Record and Child/Neglect Registry Checks for Child Welfare Agencies, was promulgated to address the Code changes. This regulation was effective May 19, 1999 and will cease being effective May 18, 2000.
- The revisions required to amend 22 VAC 15-050-10 et seq. were so extensive it is more efficient to repeal the existing regulation and promulgate a new regulation. Regulation for Criminal Record Checks for Child Welfare Agencies, 22 VAC 15-050-10 et seq. is being repealed.

- The proposed new regulation incorporates separating licensed child day center regulations, organizational changes requested during public comment, content changes requested during public comment, and clarifications.

Substance:

A summary of the substantive changes follow:

The Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. incorporates the substantive changes listed below.

- A. The changes that were mandated by the 1998 General Assembly and became effective July 1, 1998 include:
1. Expanding barrier crimes;
 2. Including prior adult convictions and juvenile convictions and adjudications of delinquency as part of the barrier crimes;
 3. Mandating child abuse and neglect central registry checks be conducted on required persons;
- NOTE: Requiring central registry checks was newly added to the criminal record sections of the Code affecting licensed child day centers and systems effective July 1, 1998. Regulations for licensed child day centers and for licensed child day center systems have not required central registry checks.
4. Adding a founded complaint of child abuse or neglect as a prohibition to licensure, employment, volunteering, or for certain officers and board members;
 5. Requiring that if a person is denied licensure, employment, or volunteer service due to a founded complaint of child abuse or neglect that the person be given a copy of the report;
 6. Expanding of prohibitions to be included in a sworn disclosure statement;
 7. Establishing a waiver request for being disqualified due to a child abuse or neglect founded complaint or felony conviction within the last five years with the restriction that certain convictions cannot be waived.

B. The Child Day-Care Council approved the below items for the Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. These items have been incorporated into the regulation for child welfare agencies.

1. Have a separate regulation for licensed child day centers.
2. Change the regulation name to **Background Clearances**. This makes referencing the regulation easier and more readable.
3. Where possible, reorganize the document so the sworn disclosure statement, criminal record report, and Child Abuse and Neglect Central Registry report do not duplicate the same statements and make the document longer.
4. Add definitions for barrier crimes, central registry report, child abuse/neglect history record request, child abuse and neglect registry, child welfare agency, commissioner, contract agency, contract employee, department, disqualifying background, involved in day-to-day operations, and licensed.
5. Modify definition for applicant for licensure, barrier crimes, central criminal records exchange, and sworn disclosure statement and remove definition for officer of the board.
6. Clarify which employees, contract employees, and officers and board members are affected by background clearances. This has been done through the definitions of an employee, contract employee, officer of the board, and “involved in the day-to-day operations of the center”. Employees, contract employees, and board members that are affected by background clearances are ones that are (i) alone with, in control of or supervising one or more children or (ii) involved in the day to day operations of a center.

“Involved in the day-to-day operations of the center” means being:
(i) in a supervisory or management position, making daily decisions regarding the operation of the center or (ii) counted by the center for purposes of staff-to-children ratios.
7. Include contract employees for background clearances when the agreement is with the parent but the service is being delivered to the child at the center. Also clarify that contract employees affected by background clearances are those contract employees that provide services to a child or children. A definition of contract employee has been added to the definitions.
8. The center shall not be penalized if the center has submitted the criminal history record request and child abuse/neglect history record request within seven days of persons being employed or volunteering.

9. For contract employees and substitute staff from temporary agencies, allow for the background clearances to be viewed, verified, and copies maintained.
10. For contract employees and substitute staff from temporary agencies, allow a background clearance to be accepted if it is not dated more than 12 months prior to the date of when the contractor begins providing services at the center.
11. If the Department becomes aware that a person has a disqualifying background, the department shall be permitted to release this information to the centers that have a legitimate interest.
12. Require a copy, not an original, of the central registry report. Only a copy is required by *Code* and provides the same flexibility as the copy of a criminal record report.
13. Change wording on verifying of background clearances to be “the center designee shall be charged with knowledge of all information in the clearance.”
14. If an individual leaves the center and the criminal record report is 90 days old or less, allow the individual to take the original. The center is to keep a copy, with a statement that it is a photocopy of an original that the center verified. The regulation should still require that the original criminal record report be obtained and filed at the location of the center where the person is currently working or volunteering.
15. Allow a criminal record report and a central registry check to remain valid as long as the period of separation does not exceed 12 consecutive months. Centers would not incur the cost of new checks for employees used in the summer such as college students. This would aid centers such as Parks and Recreation and summer programs that employ students for the summer. This would be a cost-effective change.
16. Allow copies of the criminal record report to be maintained at a non-primary place of work. If a person works at multiple centers, he will not have to obtain multiple original criminal record reports. The copy of the criminal record report must carry statement that the center designee has viewed and verified the original.
17. Not require the sworn disclosure statement to be attached to the criminal record report and central registry report. Add same retention requirements as the criminal record report and central registry report. Including the sworn disclosure statement as a background clearance accomplished this.

C. The department recommendations are below.

1. Identify that Licensed Child Day Care Systems are regulated by 22 VAC 15-051-10 et seq.
2. Comply with § 63.1-198.1 for the *Code of Virginia* that states that the provision of this section of the *Code* shall apply only to volunteers who will be alone with any child in the performance of their duties. The volunteer definition in 22 VAC 15-051-10 has been written to state this.
3. Comply with § 63.1-198, which requires background clearances prior to a person assuming board duties. In the repealed regulation, this had been 21 days.
4. Inform the person that a background clearance is being done. The Child Day-Care Council approved this for the Minimum Standards for Background Clearances for Licensed Child Day Centers.
5. Expand the acceptance of background clearances that are not dated more than 90 days to include officers and board members and licensees.

Issues:

Attached are matrix charts, which list the advantages and disadvantages of proposed regulation.

Alternatives:

The department considered the following alternatives to the proposed chapter.

- Promulgate no regulation and at the end of the emergency regulation facilities would revert to Chapter 050, Regulation for Criminal Record Checks for Child Welfare Agencies.

Significant changes to the *Code of Virginia* were mandated by the 1998 General Assembly and Chapter 050 would not address the mandates.

- Promulgate the emergency regulation as the proposed regulation.

Public comment suggested organizational, content, and clarification changes. Several questions from providers and state staff indicated where clarifications were needed.

- Amend Chapter 050, Regulation for Criminal Record Checks for Child Welfare Agencies.

The revisions required to amend 22 VAC 15-050-10 et seq. were so extensive it is more efficient to repeal the existing regulation and promulgate a new regulation. Regulation for Criminal Record Checks for Child Welfare Agencies, 22 VAC 15-050-10 et seq. is being repealed.

Public Comment:

The recommendations received from the Child-Day Care Council committee were incorporated.

Clarity of the Regulation:

Regulatory staff at central and regional levels and two day care providers reviewed the proposed regulation. Comments indicated that the flow is improved and easier to follow. The use of charts provides a quick and easy reference. The Child Day Care Council has approved the Minimum Standards for Background Clearances for Licensed Child Day Centers, which is formatted similar to this regulation. A more detail review of the proposed regulation will be done during the sixty-day public comment period.

Periodic Review:

No later than three years after the proposed regulation becomes effective, the agency will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated, and the specific and measurable goals the proposed regulation is intended to achieve.

Fiscal Impacts:

The regulation provides for clearances required by *Code*. Regulation changes have minimized a center or person having to obtain duplicate clearances.

The fees collected offset the cost to State Police of processing criminal record clearances. The fees collected offset the cost to the Department of Social Services for processing central registry reports.

Local departments of social services are not affected by this regulation.

The background clearances are the responsibility of the center. Licensing inspectors confirm background clearances have been obtained as part of the licensing and registration approval process or during inspection visits.

It is the staff at the centers that are required to have background clearances. Either the center or the person having the background clearance done would incur the costs. The cost of the State Police criminal record clearance is \$15.00 and the cost of the child abuse and neglect central registry clearance is \$5.00

There are approximately 2, 571 licensed child day centers regulated by this Chapter. Currently there are no licensed child day center systems.

Listed below are changes that have fiscal impact. The fiscal impacts show the number of centers affected and the costs per person. There are no figures available on the number of persons impacted.

- CHANGE: Require child abuse and neglect central registry clearance at initial application for licensure.

The child abuse and neglect central registry report, as a background clearance, is required at initial application for licensure.

This is to comply with 1998 Code changes mandating child abuse and neglect central registry reports. Central registry clearances became a requirement effective July 1, 1998.

Fiscal impact: There is not a count on the number of new applications for licensed child day centers per year. However, over the last three fiscal years, there has been an average annual increase of 83 centers. Cost per person is \$5.00.

- CHANGE: Require child abuse and neglect central registry clearance when a center hires an employee or has a volunteer begin service.

This is to comply with 1998 Code changes mandating child abuse and neglect central registry reports. Requiring central registry clearances became a new requirement to licensed child care centers effective July 1, 1998.

Fiscal impact: There are approximately 2,571 licensed child day centers and no licensed child day center systems. There is no estimate on the number of new employees or volunteers that begin work annually with these centers. The centers have been required to obtain the clearances since July 1, 1998. Cost per person is \$5.00.

- CHANGE: There are several changes that will slightly reduce the number of background clearances. These are:
 - Defining which employees, contract employee, and officer and board members are required to have background clearances. This was done through adding the qualifiers of (i) alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.
 - Specifying that volunteers affected by background clearances are volunteers who are alone with children.
 - For contract employees and substitute staff from temporary agencies allow the background clearances to be viewed, verified, and copies maintained. Also allow a background clearance to be accepted if it is not dated more than 12 months prior to the date of when the contractor begins providing services at the center.
 - Expand acceptance of background clearances that are not dated more than 90 days to include officers and board members and licensees.
 - Allow a person that leaves a center to take the criminal record report or central registry with him, if the report is dated no more than 90 days.
 - Change the period for a leave of absence to be increased from 6 months to 12 months before new background clearances are needed. Expanded absence to include termination of employment.

Fiscal impact: There are no estimates available on how many people these changes will impact.

**ASSESSMENT OF REGULATION ON THE INSTITUTION OF
THE FAMILY AND FAMILY STABILITY**

VAC Number: 22 VAC 40-051-10 et seq.

Regulation Title: Minimum Standards for Background Clearances for Licensed Child Day Centers

1. Strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children.

There is minimal impact on the authority and rights of parents in the education, nurturing, and supervision of their children.

If the children are cared for by a licensed child day center, the children will be supervised and managed by staff that are required to have criminal record and child abuse and neglect clearances. However, the clearance for expanded barrier crimes and child abuse and neglect founded complaints only applies to persons hired, volunteering and licensed after July 1, 1998.

2. Encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents.

The regulation does not impact the above.

3. Strengthen or erode the marital commitment.

The regulation does not impact the above.

4. Increase or decrease disposable family income.

The impact to the disposable family income for most families will be non-existent or minimal. The center or person pays for the cost of background clearances. It is unlikely that centers will increase fees as most centers have already been obtaining the child abuse and neglect central registry checks. Requiring central registry clearances became a new requirement to licensed child day centers effective July 1, 1998.

Summary: The regulation establishes background clearances for criminal convictions and founded complaints of child abuse and neglect for licensed child care centers and child care center systems. It prohibits the licensing of child care centers or child care center systems when designated persons associated with the center or system have certain criminal convictions or have ever been the subject of a founded complaint of child abuse or neglect. Centers and systems are prohibited from using a person for certain roles if the person has certain criminal convictions or has ever been the subject of a founded complaint of child abuse or neglect.

Background clearances for other child welfare agencies are in the Minimum Standards for Background Clearances for Child Welfare Agencies, 22 VAC 40-191-10 et seq.

The Regulation for Criminal Record Checks for Child Welfare Agencies, 22 VAC 15-050-10 et seq. is being repealed. The revisions required to amend 22 VAC 15-050-10 et seq. were so extensive that it is more efficient to repeal the existing regulation and promulgate a new regulation. The proposed new regulation incorporates significant *Code of Virginia* changes mandated by the 1998 General Assembly amendments, separating licensed child day center regulations, organizational changes requested during public comment, content changes requested during public comment, and clarifications.

Statutory Authority: §§ 63.1-198 through 63.1-199 of the *Code of Virginia*

Basis: The Child Day-Care Council has the statutory authority to promulgate this regulation based on *Code of Virginia* section 63.1-202. The Child Day-Care Council is authorized to regulate the following §§ 63.1-198; 63.1-198.1; and 63.1-199 of the *Code of Virginia*. These Code sections establish background clearances for criminal convictions and founded complaints of child abuse or neglect and set prohibitions if a person is found to have certain criminal convictions or have ever been the subject of a founded complaint of child abuse or neglect.

Section 63.1-198 applies to applicants for licensure. Section 63.1-199 applies to issuing or refusing a license. Section 63.1-198.1 applies to employees and volunteers of licensed child day centers and licensed child day center systems.

Purpose: The *Code of Virginia* mandates background clearances for criminal convictions and founded complaints of child abuse or neglect for licensed child day centers and systems. The Code prohibits operating, volunteering, or working at a center or system for persons who have certain convictions or a founded complaint of child abuse or neglect. This is to protect children who are in the care of licensed child day centers. Persons with convictions involving crimes against minors, violence and sex offenses or with a founded complaint of child abuse or neglect may endanger and harm children.

The agency has decided to promulgate a new regulation titled Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. for the following reasons:

- Significant changes to the *Code of Virginia* were mandated by the 1998 General Assembly.
- An emergency regulation, Regulation for Criminal Record and Child/Neglect Registry Checks for Child Welfare Agencies, was promulgated by the State Board of Social Services to address the Code changes. This regulation was effective May 19, 1999 and will cease being effective May 18, 2000.
- The revisions required to amend 22 VAC 15-050-10 et seq. were so extensive it is more efficient to repeal the existing regulation and promulgate a new regulation. Regulation for Criminal Record Checks for Child Welfare Agencies, 22 VAC 15-050-10 et seq. is being repealed.
- The proposed new regulation incorporates separating licensed child day center regulations, organizational changes requested during public comment, content changes requested during public comment, and clarifications.

Substance: A summary of the substantive changes follow:

The Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. incorporates the substantive changes listed below.

B. The changes that were mandated by the 1998 General Assembly and became effective July 1, 1998 include:

8. Expanding barrier crimes;
9. Including prior adult convictions and juvenile convictions and adjudications of delinquency as part of the barrier crimes;
10. Mandating child abuse and neglect central registry checks be conducted on required persons;

NOTE: Requiring central registry checks was newly added to the criminal record sections of the Code affecting licensed child day centers and systems effective July 1, 1998. Regulations for licensed child day centers and for licensed child day center systems have not required central registry checks.

11. Adding a founded complaint of child abuse or neglect as a prohibition to licensure, employment, volunteering, or for certain officers and board members;
12. Requiring that if a person is denied licensure, employment, or volunteer service due to a founded complaint of child abuse or neglect that the person be given a copy of the report;
13. Expanding of prohibitions to be included in a sworn disclosure statement;
14. Establishing a waiver request for being disqualified due to a child abuse or neglect founded complaint or felony conviction within the last five years with the restriction that certain convictions cannot be waived.

C. The Child Day-Care Council approved the below items for the Minimum Standards for Background Clearances for Licensed Child Day Centers, 22 VAC 15-051-10 et seq. These items have been incorporated into the regulation for child welfare agencies.

5. Have a separate regulation for licensed child day centers.
6. Change the regulation name to **Background Clearances**. This makes referencing the regulation easier and more readable.
7. Where possible, reorganize the document so the sworn disclosure statement, criminal record report, and Child Abuse and Neglect Central Registry report do not duplicate the same statements and make the document longer.

8. Add definitions for barrier crimes, central registry report, child abuse/neglect history record request, child abuse and neglect registry, child welfare agency, commissioner, contract agency, contract employee, department, disqualifying background, involved in day-to-day operations, and licensed.
18. Modify definition for applicant for licensure, barrier crimes, central criminal records exchange, and sworn disclosure statement and remove definition for officer of the board.
19. Clarify which employees, contract employees, officers and board members are affected by background clearances. This has been done through the definitions of an employee, contract employee, officer of the board, and “involved in the day-to-day operations of the center”. Employees, contract employees, and board members that are affected by background clearances are ones that are (i) alone with, in control of or supervising one or more children or (ii) involved in the day to day operations of a center.

“Involved in the day-to-day operations of the center” means being:

 - (i) in a supervisory or management position, making daily decisions regarding the operation of the center or
 - (ii) counted by the center for purposes of staff-to-children ratios.
20. Include contract employees for background clearances when the agreement is with the parent but the service is being delivered to the child at the center. Also clarify that contract employees affected by background clearances are those contract employees that provide services to a child or children. A definition of contract employee has been added to the definitions.
21. The center shall not be penalized if the center has submitted the criminal history record request and child abuse/neglect history record request within seven days of persons being employed or volunteering.
22. For contract employees and substitute staff from temporary agencies, allow for the background clearances to be viewed, verified, and copies maintained.
23. For contract employees and substitute staff from temporary agencies, allow a background clearance to be accepted if it is not dated more than 12 months prior to the date of when the contractor begins providing services at the center.
11. If the Department becomes aware that a person has a disqualifying background, the department shall be permitted to release this information to the centers that have a legitimate interest.

12. Require a copy, not an original, of the central registry report. Only a copy is required by *Code* and provides the same flexibility as the copy of a criminal record report.
13. Change wording on verifying of background clearances to be “the center designee shall be charged with knowledge of all information in the clearance.”
14. If an individual leaves the center and the criminal record report is 90 days old or less, allow the individual to take the original. The center is to keep a copy, with a statement that it is a photocopy of an original that the center verified. The regulation should still require that the original criminal record report be obtained and filed at the location of the center where the person is currently working or volunteering.
15. Allow a criminal record report and a central registry check to remain valid as long as the period of separation does not exceed 12 consecutive months. Centers would not incur the cost of new checks for employees used in the summer such as college students. This would aid centers such as Parks and Recreation and summer programs that employ students for the summer. This would be a cost-effective change.
16. Allow copies of the criminal record report to be maintained at a non-primary place of work. If a person works at multiple centers, he will not have to obtain multiple original criminal record reports. The copy of the criminal record report must carry statement that the center designee has viewed and verified the original.
17. Not require the sworn disclosure statement to be attached to the criminal record report and central registry report. Add same retention requirements as the criminal record report and central registry report. Including the sworn disclosure statement as a background clearance accomplished this.

D. The department recommendations are below.

6. Identify that Licensed Child Day Care Systems are regulated by 22 VAC 15-051-10 et seq.
7. Comply with § 63.1-198.1 for the *Code of Virginia* that states that the provision of this section of the *Code* shall apply only to volunteers who will be alone with any child in the performance of their duties. The volunteer definition in 22 VAC 15-051-10 has been written to state this.
8. Comply with § 63.1-198, which requires background clearances prior to a person assuming board duties. In the repealed regulation, this had been 21 days.
9. Inform the person that a background clearance is being done. The Child Day-Care Council approved this for the Minimum Standards for Background Clearances for Licensed Child Day Centers.

10. Expand the acceptance of background clearances that are not dated more than 90 days to include officers and board members and licensees.

Issues:

General Issues

Issue 1: Title has changed

The title of repealed Chapter 050 was Regulation for Criminal Record Checks for Child Welfare Agencies. Chapter 051 is titled Minimum Standards for Background Clearances for Licensed Child Day Centers. The title has been revised to state that this applies to licensed child day centers. The *Code* has been revised to include Child Abuse/Neglect Registry checks. To expand the title to Regulation for Criminal Record and Child Abuse/Neglect Registry Checks for Licensed Child Day Centers would be too cumbersome. Minimum Standards was added to the title so the public would know that these are minimum requirements.

Advantages and Disadvantages: The title is shorter and identifies clearly what facilities are affected by the regulation. Providers will know that these are minimum requirements. The Child Day-Care Council supports the change for centers. Disadvantage is centers and state staff affected by this regulation will have to adjust to a new name.

Issue 2: Flow of document has changed

The flow of document has changed. Repealed Chapter 050 was by type of report required. Chapter 051 outlines background clearance by provider flow.

Advantages and Disadvantages: Organizing the Chapter by background clearance report would have created duplication of wording, as most requirements are the same for the three background clearances. The Child-Day Care Council committee recommended that the Chapter be reorganized so the sworn disclosure statement, criminal record, and central registry do not duplicate the same statements. Persons who have reviewed the Chapter prefer the new flow. Disadvantage is that persons who use the Chapter will have to adjust to a new flow.

Repealed Chapter 050		Propose Chapter 051	
Part I	Definitions	Part I	Introduction (includes definitions, licensed child day center systems and barrier crimes)
Part II	The Sworn Disclosure Statement	Part II	Background Clearances at Initial Application

Part III	The Criminal Record Report	Part III	Background Clearances After Initial Licensure
-	General Requirements	Part IV	Consequences Associated With Background Clearances
-	Validity of Report	Part V	Verifying Background Clearances
-	Maintenance of Report	Part VI	Duration of Background Clearances
-	Requirements for Board Members	Part VII	Maintenance of Background Clearances
		Part VIII	The Waiver

Part I. 22 VAC 15-051-10. Introduction.

Issue 3: The following definitions have been added: background clearances, center, central registry report, child abuse/neglect history record request, child abuse and neglect registry, child day center, child day center system, commissioner, contract agency, contract employee, department, disqualifying background, involved in day-to-day operations, and licensed.

Advantages and Disadvantages: These terms are used in the regulation. The definitions provide references for the reader. The reader will need to refer to the definitions when reviewing the regulation.

Issue 4: Modified definitions for applicant for licensure, barrier crimes, central criminal record exchange, center, and sworn disclosure statement.

Advantages and Disadvantages: These terms were modified either to incorporate Code changes or to clarify the definition. There should be no disadvantage as no information has been removed.

Issue 5: The definition of employee has two significant changes

Defining employee has two significant changes. These are (1) changing the employees affected and (2) separating out and changing the contract employee. Below is information on each of these changes.

1. Changing the employees affected

Explanation of Change

In Chapter 050, “employee” means all personnel hired at a center regardless of role, service, age, function, or duration of employment at the center.”

In Chapter 051, employee means a person hired by a center. A qualifier is used in the Chapter 051 stating that background clearances only apply to employees who are:

(i) Alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

“Involved in the day to day operations of a center” means being:

1. in a supervisory or management position which makes daily decisions regarding the operation of the center;
2. counted by the center for purposes of staff-to-children ratios;

See

22 VAC 15-051-40-10, involved in day to day operations for center definition

22 VAC 15-051-40 A 2.

22 VAC 15-051-50 A 1

Below are examples of the type of employees that would no longer be required to have clearances unless they meet the criteria of (i) alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

- A janitor or cook that works at a center;
- A person employed for a specialty service such as providing music lessons; and
- A secretary at a center.

Advantage

Clarifies which employees are affected by background clearances. Reduces confusion and questions from providers and state licensing inspectors on which employees require background clearances. Eliminates the cost of \$20.00 per individual to providers of obtaining background clearances on certain limited number of employees.

Disadvantage

Not every person that is hired by a center will be required to have background clearance.

2. Separating and changing the contract employee definition

Explanation of Change

Contract employees have been taken out of the definition of employee. Three changes have occurred to the substantive definition of contract employee. These are:

- a. In chapter 051 , contract employees has been given the same qualifier as employees:
 - (i) Alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

22 VAC 15-051-40-10, involved in day to day operations for center definition
22 VAC 15-051-40 A 2.
22 VAC 15-051-50 A 2
- b. The scope of the contract employee has been narrowed to contract employees that provide services to a child or children.
- c. The scope has been broadened to include a person or person working for contract agency with which the parent has an agreement to provide services to a child or children at the center.

Advantage

- a. *Clarifies which contract employees are affected by background clearances. Reduces confusion and questions from providers and state licensing inspectors on which employees require background clearances.*
- b. *Eliminates the \$20.00 background clearance expense per individual to providers for contract staff who are not providing services to a child or children. This would eliminate requiring background clearances on a contract staff such as an electrician, gardener, secretary, or any staff that would not be working with the children.*
- c. *A parent sometimes will make an agreement for a person to come to the center and provide a service such as speech therapy, gymnastics, and music to his child. This allows for a center to require a background clearance for this person if the person will be alone with, in control of, or supervising one or more children while at the center. This assures clearances have been done on a person alone with a child or children.*

Disadvantage

Of a and b not every person that is hired by a center will be required to have background clearance.

Of c. requires additional background clearance, and the center or person having the background clearance would incur the cost.

22 VAC 15-051-30. Barrier crimes specified.

Issue 6: Expansion of barrier crimes was so extensive and it was clearer to list the crimes in a separate section

Advantages and Disadvantages: Provides a list of barrier crime and complies with the expansion of convictions mandated by the 1998 Code changes.

PART II. 22 VAC 15-051-40. Background clearances at initial application for licensure.

Issue 7: Require central registry report

Require central registry report, as a background clearance required at initial application for licensure. See 22 VAC 15-051-50 A.

Advantages and Disadvantages: Complying with 1998 Code changes mandating child abuse and neglect central registry reports. Disadvantage will be the cost of \$5.00 per person to the center or to the person obtaining the clearance. Requiring central registry checks became a new cost to licensed child day centers and licensed child day center systems effective July 1, 1998.

Issue 8: Added that the center shall inform the person that background clearances are being done. See 22 VAC 15-051-40 B.

Advantages and Disadvantages: Person being screened will know that a criminal record check is being done. The person may not know that a criminal history has been requested, as the person is not required to sign the request form. No disadvantages known.

Issue 9: Added that the center shall not be penalized if the center has submitted the criminal history request report and child abuse/neglect history request within seven days of person's being employed or volunteering. See 22 VAC 15-051-40 C.

Advantages and Disadvantages: Preventing centers from being penalized if they have requested clearances. Background clearances are not always being processed by the state within 21 days.

Issue 10: Added that persons who have background clearances by the child day center are not required to obtain new clearances when the initial application is due to a change in site location, the entity opens a new site, ownership or sponsorship changes or the licensing of a religious exempt center. See 22 VAC 15-051-40 D.

Advantages and Disadvantages: Reducing costs when a background clearance has already been obtained.

PART III. 22 VAC 15-051-50. Background clearances after initial application for licensure.

Issue 11: Changed when officers and board members are required to obtain clearances. Changed from 21 days to obtain the criminal record report when the board member assumes the position to prior to assuming position. See 22 VAC 15-051-50 A 3.

Advantages and Disadvantages: Complies with § 63.1-198, which requires background clearances prior to a person's assuming board duties.

Issue 12: For contract employees and substitute staff from temporary agencies allow for the background clearances to be viewed, verified, and copies maintained. Also allow a background clearance to be accepted if it is not dated more than 12 months prior to the date of when the contractor begins providing services at the center. See 22 VAC 15-051-50 C.

Advantages and Disadvantages: A center or individual will not have to incur costs of obtaining additional clearances. The center verifying the clearances rather than the agency assures the center has seen that there is no disqualifying background on the reports. If a person is a sole contractor, it is critical that a person other than the contractor is verifying the clearances.

Allows a contractor to serve more centers without incurring additional background clearance costs. If a contractor serves multiple centers, then each time he begins serving a new center within a year of obtaining background clearances, he is not required to obtain new clearances. A contractor serving multiple centers usually occurs when a contractor provides a specialty service such as gym classes, computer classes, music lessons, tutoring, etc.

Issue 13: If the person or persons designated as the applicant; licensee; approved individual or individuals; or registrant or registrants changes, the center shall obtain background clearances on the new designated person or persons. See 22 VAC 15-051-50 D.

Advantages and Disadvantages: The above had been required by repealed Chapter 050, but it is clearly stated in this regulation.

PART IV. 22 VAC 15-051-60. Consequences associated with background clearances.

Issue 14: This section was added to specify the consequences of having a disqualifying background. Also added that the center shall provide a person with information appearing on the background clearance if there is a denial of approval or employment due to a disqualifying background.

Advantages and Disadvantages: Complies with Code § 63.1-198 through §63.1-199 of the Code of Virginia.

PART V. 22-VAC-051-70. Verifying background clearances.

Issue 15: Expand acceptance of background clearances that are not dated more than 90 days to include officers and board members and licensees. See 22 VAC 051-70 B and C.

Advantages and Disadvantages: Reducing costs by not requiring a new clearance if one is recent. Center and department will not know if a disqualifying background occurred within the last 90 days.

Issue 16: Change wording on verifying of background clearances to be “the center designee shall be charged with knowledge of all information in the clearance.”
See 22 VAC 051-70 E.

Advantages and Disadvantages: The wording is more concise. Regulation does not specify what is to be verified or how to determine that clearance is for the correct person.

PART VI. 22 VAC 15-051-80. Duration of background clearances.

Issue 17: Allow a person that leaves a center to take clearances
Allow a person that leaves a center and the criminal record report or central registry report is 90 days old or less, to take the report or reports with him.
See 22 VAC-051-80 A.

Advantages and Disadvantages: This keeps the new center from having to incur the cost of obtaining a new clearance when a valid one is still available.

Issue 18: Leave of absence period to 12 months

Change the period for a leave of absence to be increased from 6 months to 12 months before new background clearances are needed. Expanded absence to include termination of employment. See 22 VAC 15-051-80 B

Advantages and Disadvantages: This reduces the cost to centers of having to get clearances on employees/volunteers that are gone 12 months or less. This would aid centers such as Parks and Recreation and summer programs that employ students for the summer. This would be a cost-effective change. The Child-Day Care Council recommended this.

Part VII. 22 VAC 15-051-90. Maintenance of background clearances.

Issue 19: Maintain copy of verified original criminal record report

Allows that if a person works at more than one center, a center may keep a copy of the criminal record report with a statement that it has been verified from an original report. See 22 VAC 15-051-90 C.

Advantage and Disadvantage: This eliminates the cost of centers having to get duplicate criminal record reports and central registry reports when a person is working for more than one center at the same time.

Part VIII. 22 VAC 15-051-100. The waiver.

Issue 20: Establishes a waiver request when a person is disqualified due to a child abuse or neglect founded complaint or felony conviction within the last five years. There is a restriction that certain convictions can not be waived.

Advantage and Disadvantage: Complies Code of Virginia § 63.1-198.4.

Estimated impacts: The regulation provides for clearances required by *Code*. Regulation changes have minimized a center or person having to obtain duplicate clearances.

The fees collected offset the cost to State Police of processing criminal record clearances. The fees collected offset the cost to the Department of Social Services for processing central registry reports.

Local departments of social services are not affected by this regulation.

The background clearances are the responsibility of the center. Licensing inspectors confirm background clearances have been obtained as part of the licensing and registration approval process or during inspection visits.

It is the staff at the centers that are required to have background clearances. Either the center or the person having the background clearance done would incur the costs. The cost of the State Police criminal record clearance is \$15.00 and the cost of the child abuse and neglect central registry clearance is \$5.00

There are approximately 2, 571 licensed child day centers regulated by this Chapter. Currently there are no licensed child day center systems.

Listed below are changes that have fiscal impact. The fiscal impacts show the number of centers affected and the costs per person. There are no figures available on the number of persons impacted.

- CHANGE: Require child abuse and neglect central registry clearance at initial application for licensure.

The child abuse and neglect central registry report, as a background clearance, is required at initial application for licensure.

This is to comply with 1998 Code changes mandating child abuse and neglect central registry reports. Central registry clearances became a requirement effective July 1, 1998.

Fiscal impact: There is not a count on the number of new applications for licensed child day centers per year. However, over the last three fiscal years, there has been an average annual increase of 83 centers. Cost per person is \$5.00.

- CHANGE: Require child abuse and neglect central registry clearance when a center hires an employee or has a volunteer begin service.

This is to comply with 1998 Code changes mandating child abuse and neglect central registry reports. Requiring central registry clearances became a new requirement to licensed child care centers effective July 1, 1998.

Fiscal impact: There are approximately 2,571 licensed child day centers and no licensed child day center systems. There is no estimate on the number of new employees or volunteers that begin work annually with these centers. The centers have been required to obtain the clearances since July 1, 1998. Cost per person is \$5.00.

- CHANGE: There are several changes that will slightly reduce the number or background clearances. These are:
 - Defining which employees, contract employee, and officer and board members are required to have background clearances. This was done through adding the qualifiers

- of (i) alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.
- Specifying that volunteers affected by background clearances are volunteers who are alone with children.
 - For contract employees and substitute staff from temporary agencies allow the background clearances to be viewed, verified, and copies maintained. Also allow a background clearance to be accepted if it is not dated more than 12 months prior to the date of when the contractor begins providing services at the center.
 - Expand acceptance of background clearances that are not dated more than 90 days to include officers and board members and licensees.
 - Allow a person that leaves a center to take the criminal record report or central registry with him, if the report is dated no more than 90 days.
 - Change the period for a leave of absence to be increased from 6 months to 12 months before new background clearances are needed. Expanded absence to include termination of employment.

Fiscal impact: There are no estimates available on how many people these changes will impact.

MATRIX OF SUBSTANCE AND ISSUES

Overall changes:

- The term person or persons is being used consistently in Chapter 051. Wherever, the term individual or individuals appeared in Chapter 050, it has been changed to person or persons in Chapter 051. As these changes do not alter content, these are not mentioned in item changes.
- §§ 63.1-198, 63.1-198.1, 63.1-198.2, 63.1-198.3, and 63.1-199 were revised to require central registry checks for child abuse and neglect and established prohibitions for persons who are a subject of a founded complaint of child abuse or neglect. Therefore, the new proposed Chapter 051 includes these mandates that were not included in the repealed Chapter 050. Requiring child abuse and neglect central registry checks became a new requirement for licensed child day centers and licensed day center systems effective July 1, 1998. Since July 1, 1998 the central registry checks have been required at initial license, for new employees, volunteers and officers or board members.
- Proposed Chapter 051 has regulations for licensed child day centers and licensed child day center systems. Background clearance regulations for all other child welfare agencies have been removed. These regulations are in the Minimum Standards for Background Clearances for Child Welfare Agencies, 22 VAC 40-191-10 et seq. The terms approved and registered have been removed from Chapter 051, as these do not apply to licensed child day centers.

- **FLOW OF DOCUMENT HAS CHANGED**

Repealed Chapter 050	Proposed Chapter 051	Advantage to public and state staff by	Disadvantage to public and state staff by
Part I –Definitions Part II -The Sworn Disclosure Statement Part III - The Criminal Record Report - General Requirements - Validity of Report	Part I - Introduction - Definitions - Licensed child day center systems - Barrier Crimes list Part II - Background Clearances at Initial Licensure Part III - Background Clearances After Initial Licensure	Outlining background clearance requirements in terms of provider flow. Continuing an outline by document would have created duplication of wording, as most requirements are the same for all three-background clearances. The Child Day-Care	Having to adjust to the new organizational flow.

MATRIX OF SUBSTANCE AND ISSUES

<ul style="list-style-type: none"> - Maintenance of Report - Requirements for Board Members 	<p>Part IV -Consequences Associated With Background Clearances</p> <p>Part V - Verifying Background Clearances</p> <p>Part VI - Duration of Background Clearances</p> <p>Part VII-Maintenance of Background Clearances</p> <p>Part VIII The Waiver</p>	<p>Council committee recommended that the Chapter be reorganized so the sworn disclosure statement, criminal record report, and child abuse and neglect central registry report do not duplicate statements and make the document longer.</p> <p>Reviewers of the Chapter have liked the organization.</p>	
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COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051

Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
Title				
Regulation for Criminal Record Checks for Child Welfare Agencies	Minimum Standards for Background Clearances for Licensed Child Day Centers	<p>The <i>Code</i> has been revised to include Child Abuse/Neglect Registry checks. To expand the title to Regulation for Criminal Record and Child Abuse/Neglect Registry Checks for Licensed Child Day Centers would be too cumbersome.</p> <p>The title has been customized to licensed child</p>	<p>Having a shorter and broader title to refer to when reading or writing about this Chapter.</p> <p>The Child Day-Care Council committee recommended a shorter name.</p> <p>Using licensed child day centers identified clearly which facilities are affected</p>	Centers and state staff affected by this regulation having to adjust to a new name.

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>day centers.</p> <p>Minimum Standards added to the title.</p>	<p>by the regulation.</p> <p>Emphasizing that these are minimum standards.</p>	
Part I. Introduction.				
22 VAC 15-050-10 Definitions	22 VAC 15-051-10 Definitions			
Applicant for licensure or registration	Applicant for licensure	<p>Clarifies definition so it better identifies who the applicant is.</p> <p>Dropped “or registration” as registration does not apply to licensed child day centers.</p>	<p>Clarifying whom the applicant is for background clearances.</p>	None
Barrier crimes	Barrier crimes And 22 VAC 15-051-15 E 22 VAC 15-051-60 A	<p>Removes description of specified crimes. This is now covered in 22 VAC 15-051-30</p> <p>Disqualifying aspects of definitions are now in 22 VAC 15-051-40 E and 22 VAC 15-051-60 A.</p>	<p>Providing an updated list of barrier crimes that complies with 1998 <i>Code</i> changes. All the regulation statements are in the regulation section of the Chapter and not mixed with the definition.</p>	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
Central Criminal Records Exchange	Central Criminal Records Exchange	Removed through which the criminal record report request is processed. Information covered in 22 VAC 15-051-70 A 2 b.	N/A	N/A
Contracting organization	Deleted	This term does not apply to licensed child day centers.	N/A	N/A
Criminal history record request	Criminal history record request	None	N/A	N/A
Criminal history record report	Criminal history record report	Removed that “the criminal record clearance provides conviction data only related to barrier crimes and that the criminal history record discloses all known conviction data.” Added that the reports are on convictions within the Commonwealth.	Removing process information from the definition. These items are included with other information about the process. By advising that the convictions are just for those in Virginia.	None
Employee	Deleted from definitions	See attachment on Defining Employee and Contract Employee for changes in	See attachment on Employee and Contract Employee for changes in regulation related	See attachment on Defining Employee and Contract Employee for

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
		regulation related to employees. Employee qualifiers are in 22 VAC 15-0151-40 B and 50 A.	to employees	changes in regulation related to employees
Facility	Deleted	The term center is used in this regulation instead of facility as the regulation applies to licensed child day centers.	Using a clearer more specific term.	None
Officer of the board		This definition is no longer in Chapter 051. Chapter 051 uses Officer and Board members with the qualifier (i) Alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center or officers and board members. See 22 VAC 15-051-40 A 2 22 VAC 15-051-50 A 3	Clarifying the condition under which a board member shall have background clearances. Clarifying that background clearances are required if an officer is directly involved with the care or children or in a management position making daily decisions.	None
Parent-volunteer	Parent-volunteer	None	N/A	N/A
Sworn disclosure	Sworn disclosure	Revised to include	Complying with 1998 <i>Code</i>	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
statement	statement	mandated central registry checks. Removed references to who must complete the statement as this is covered in the chapter. See 22 VAC 15-051-40 A 22 VAC 15-051-50 1a, 2a, 3a	changes requiring sworn disclosure statement for founded complaints for child abuse or neglect.	None
Volunteer	Staff volunteer	The term staff volunteer is clearer for child day centers. In Chapter 051 a volunteer is person who provides services without pay and who is alone with children in performance of his duties. In the repealed Chapter 050, it was a volunteer alone with, in control of, or supervising one or more children outside the presence of paid center staff.	Using a term that is familiar to child day centers. Complying with § 63.1-198.1 for the <i>Code of Virginia</i> that states that the provision of this section of the <i>Code</i> shall apply only to volunteers who will be alone with any child in the performance of their duties.	None
These following definitions did not exist in repealed Chapter 050.				

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
	Background Clearances	Added	Using a comprehensive term when referring to all background clearances. This is easier when reading or writing about this Chapter.	Person reading the Chapter needing to refer to the definition.
	Center	Using the term center is shorter than repeating licensed child day center throughout the regulation.	Regulation is easier to read.	None
	Central registry report	Added	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.	None
	Child Abuse and Neglect Registry	Added	Complying with 1998 <i>Code</i> change mandating child abuse and neglect central registry reports.	None
	Child abuse/neglect history record request	Added	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.	None
	Child day center	Added	Defining what a child day center is.	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
	Child day center system	Added	Defining what a child day center system is.	None
	Commissioner	Added	Defining term used throughout document.	None
	Contract agency	Added	Defining term used in document.	None
	Contract Employee	Added	See attachment on Defining Employee and Contract Employee.	See attachment on Defining Employee and Contract Employee.
	Department	Added	Defining term used throughout document.	None
	Disqualifying background	Added	Using a comprehensive term when referring to conditions that prohibit licensure, employment, contract employment, volunteering, and serving as a board member or officer. This makes it easier when reading or writing about the conditions that disqualify a person from assuming a role.	Person reading the Chapter needing to refer to definition when reading the Chapter.
	Involved in day-to-day operations of the	Added	See attachment on Defining Employee and Contract	See attachment on Defining Employee and

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
	center		Employee.	Contract Employee.
	Licensed	Added	Defining term used throughout document.	None
22 VAC-15-050-20 Legal base and applicability.	None	Deleted from Chapter 051 as this is no longer required.	Being consistent with standards for format of regulations.	None
Part II. Sworn Disclosure.				
22 VAC 15-050-30 A Sworn disclosure prior to assuming role	22 VAC 15-051-40A 22 VAC 15-051-50 A 1b,2b,3b & 22 VAC 15-051-50 B	No substantive change.	N/A	N/A
22 VAC 15-050-30 B False statement by person	22 VAC-15-051-10 Definition of Sworn Disclosure statement	No substantive change.	N/A	N/A
22 VAC 15-050-30 C Attached & filed to criminal record report	22 VAC-15-051-90	The sworn disclosure statement included with maintenance requirements for all background clearances.	Making it easier for providers to maintain all background clearances the same way. Change based on Child Day-Care Council recommendation.	None
Part III. The Criminal Record Report.				
22 VAC 15-050-40 A Prior to licensure	22 VAC 15-051-40	Expanded to include all background clearances.	Complying with <i>Code</i> §63.1-198.1. and complying with	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
Available commissioner	22 VAC 15-051-90 A		1998 <i>Code</i> change adding central registry reports and clarify sworn disclosure shall be made available to the Commissioner.	
22 VAC 15-050-40 B Prior 21st day of employment/volunteer	22 VAC 15-051-40 C 22 VAC 15-051-50 A 1b, 22 VAC 15-051-50 B	No substantive change.	N/A	
22 VAC 15-050-40 B Exception for approved providers	Deleted	This exception did not apply to child day centers.	N/A	N/A
22 VAC 15-050-40 C Disqualified if barrier crime conviction	22 VAC 15-051-70 B	Expanded to include prior adult convictions and juvenile convictions and adjudications as part of the barrier crimes; and a founded complaint of child abuse within and outside the Commonwealth.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.	None
22 VAC 15-050-40 D Licensee or registered	22 VAC 15-051-70 E	Expanded to include central registry report and sworn	Complying with 1998 <i>Code</i> changes mandating child	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
family home provider verify no barrier crime		disclosure.	abuse and neglect central registry reports.	
22 VAC 15-050-40 E Kept confidential	22 VAC 15-051-70 D	Expanded to include central registry report.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.	None
22 VAC 15-050-40 F Accept criminal record report dated not more than 90 days	22 VAC 15-051-70 B & C	Expanded to include central registry report. Expanded to include officers and board members and licensees.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports. Reducing costs by not requiring a new check if one is recent.	None Center and department not knowing if a disqualifying background occurred within the last 90 days.
Validity of Reports				
22 VAC 15-050-50 A Accept only original criminal record report	22 VAC 15-051-70 2 a.	No substantive change.	N/A	N/A
22 VAC 15-050-50 A Exception	22 VAC 15-051-50 C	Expanded to include sworn disclosure and central registry.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement.	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>Expanded to include contract employees or independent contractors.</p> <p>Replaces a letter with the center verifying the required background clearances and then maintaining copies.</p> <p>Allows for a background clearance to be 12 months old and still be acceptable when a contractor begins with a center.</p>	<p>Avoiding a center having to incur costs of obtaining additional clearances.</p> <p>Center verifying the clearances rather than the agency. This assures the center has seen that there is no disqualifying background on the reports If a person is a sole contractor, it is critical that a person other than the contractor is verifying the clearances.</p> <p>Allowing a contractor to serve more centers without incurring additional background clearance costs.</p> <p>If a contractor serves multiple centers, then each time he begins serving a new center within a year of obtaining background clearances, he is</p>	<p>None</p> <p>Center needing to verify and maintain more documents as opposed to one letter.</p> <p>The clearance being as much as twelve months old.</p>

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
			not required to obtain new clearances. A contractor serving multiple centers usually occurs when a contractor provides a specialty service such a gym classes, computer classes, music lessons, tutoring, etc.	
22 VAC 15-050-50 B Verifying report	22 VAC 15-051-70 E	Expanded to include central registry report. Wording changed to the center designee shall be charged with knowledge of all information in the clearance.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports. Concise wording covering complete review of background clearance.	None Not specifying what is to be verified or how to determine that clearance is for the correct person.
22 VAC 15-050-50 C Report remains valid		This statement is removed but is covered by 22 VAC 15-051-50.	None	None
22 VAC 15-050-50 C Exception- Voluntary registered	Deleted	This section does not apply to child day centers.	Removing regulations that do not apply to child day centers.	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-050-50 D Terminate and begin a new center the criminal record report is not valid	22 VAC 15-051-80	To allow a person that leaves a center and the criminal record report or central registry report is 90 days old or less, the person may take the report or reports with him.	The center not incurring the cost of obtaining new clearances when there is still a valid clearance (one that is within the last 90 days) if the person goes to another center.	None
22 VAC 15-050-50 D Exception 1 & 2, transfer lapse 30 days	22 VAC 15-051-80	The period for a leave of absence has been increased from 6 months to 12 months before new background clearances is needed. Expanded absences to include termination of employment. This will aid centers such as Parks and Recreation and summer programs that employ students.	Reducing the cost to centers or individuals by not having to get background clearances on employees/volunteers that have left the center within the last 12 months. The Child Day-Care Council recommended this change.	The centers not knowing if a person acquired a disqualifying backgrounds during the additional six months.
Part III Maintenance				
22 VAC 15-050-60 A Where to maintain criminal record report	22 VAC 15-051-90 B	Expanded to include central registry report and sworn disclosure.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement.	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALD CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-050-60 B Length maintained	22 VAC 15-051-90	Expanded to include central registry report and sworn disclosure.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement.	None
22 VAC 15-050-60 B Exception –letter	22 VAC 15-051-90 E	None	N/A	N/A
22 VAC 15-050-60 C When employees rotated	22 VAC 15-051-90	Expanded to include central registry report and sworn disclosure. Expanded to include all persons that work at more than one center even if the centers are owned/operated by different entities.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement. Eliminating cost to the center or individual of obtaining duplicative criminal record checks. If a person works at more than one center, then multiple original criminal record checks do not have to be obtained and paid for. The check still can not be older than 90 days.	None None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-050-60 D Maintain locked files	None	This has been deleted. 22 VAC 15-051-70 D requires that the background clearances be kept confidential.	Responsibility is on the center to determine how to keep the clearances confidential. Example such a locked room instead of locked file	Center needing to explain how files are being kept confidential.
Board				
22 VAC 15-050-70 A Obtained for Board members	22 VAC 15-051-40 A 22 VAC 15-051-50 A 3	Definition of involved in the day-to-day operations of the center has been added. Changed from 21 days to obtain the criminal record report when the board member assumes the position to prior to assuming position. Added child abuse and neglect central registry	Clarifying under what conditions a board member shall have background clearances. Clarifying that background clearance are required if an officer is directly involved with the care or children or in a management position making daily decisions Complying with § 63.1-198, which requires background clearances prior to a person assuming board duties. Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
		neglect central registry reports and sworn disclosure statement.	abuse and neglect central registry reports and sworn disclosure statement.	
22 VAC 15-050-70 B Board member changes position	22 VAC 15-051-80 C	Added child abuse and neglect central registry reports and sworn disclosure statement.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement.	None

MATRIX OF SUBSTANCE AND ISSUES

COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051				
Repealed Chapter 050	Proposed Chapter 051	Change	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-050-70 C Advisory boards not required to obtain check	22 VAC 15-051-10	None as same intent covered in definition of involved in the day-to-day operations excludes advisory boards.	N/A	N/A

MATRIX OF SUBSTANCE AND ISSUES

Attachment Defining Employee and Contract Employee Explanation of Change, Advantages and Disadvantages

Defining employee has two significant changes. These are (1) changing the employees affected and (2) separating out and changing the contract employee. Below is information on each of these changes.

2. Changing the employees affected

Explanation of Change

In Chapter 050, “employee” means all personnel hired at a center regardless of role, service, age, function, or duration of employment at the center.”

In Chapter 051, employee means a person hired by a center. A qualifier is used in the Chapter 051 stating that background clearances only apply to employees who are:

(i) Alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

“Involved in the day to day operations of a center” means being:

3. in a supervisory or management position which makes daily decisions regarding the operation of the center;
4. counted by the center for purposes of staff-to-children ratios;

See

22 VAC 15-051-40-10, involved in day to day operations for center definition

22 VAC 15-051-40 A 2.

22 VAC 15-051-50 A 1

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Below are examples of the type of employees that would no longer be required to have clearances unless they meet the criteria of i) alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

- . A janitor or cook that works at a center;
- . A person employed for a specialty service such as providing music lessons; and
- . A secretary at a center.

Advantage

Clarifies which employees are affected by background clearances. Reduces confusion and questions from providers and state licensing inspectors on which employees require background clearances. Eliminates the cost of \$20.00 per individual to providers of obtaining background clearances on certain limited number of employees.

Disadvantage

Not every person that is hired by a center will be required to have background clearance.

2. Separating and changing the contract employee definition

Explanation of Change

Contract employees have been taken out of the definition of employee. Three changes have occurred to the substantive definition of contract employee. These are:

b. In chapter 051 , contract employees has been given the same qualifier as employees:

(i) Alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center.

22 VAC 15-051-40-10, involved in day to day operations for center definition

22 VAC 15-051-40 A 2.

22 VAC 15-051-50 A 2

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- b. The scope of the contract employee has been narrowed to contract employees that provide services to a child or children.
- c. The scope has been broadened to include a person or person working for contract agency with which the parent has an agreement to provide services to a child or children at the center.

Advantage

- d. Clarifies which contract employees are affected by background clearances. Reduces confusion and questions from providers and state licensing inspectors on which employees require background clearances.
- e. Eliminates the \$20.00 background clearance expense per individual to providers for contract staff who are not providing services to a child or children. This would eliminate requiring background clearances on a contract staff such as an electrician, gardener or secretary or any staff that would not be working with the children.
- f. A parent sometimes will make an agreement for a person to come to the center and provide a service such as speech therapy, gymnastics, and music to his child. This allows for a center to require a background clearance for this person if the person will be alone with, in control of, or supervising one or more children while at the center. This assures clearances have been done on a person alone with a child or children.

Disadvantage

Of a and b, not every person that is hired by a center will be required to have background clearance.

Of c, requires additional background clearance, and the center or person having the background clearance would incur the cost.

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
Chapter 051 has a different flow and new sections	22 VAC 15-050-20	Deleted these sections	Creating a regulation by provider flow. Continuing an outline by document would have created duplication of wording, as most requirements are the same for all three-background clearances.	None
	22 VAC 15-050-30	22 VAC 15-050-20, legal base and applicability are no longer required.		
	22 VAC 15-050-40			
	22 VAC 15-050-50	22 VAC-050-30 through 22 VAC 15-050-70 deleted as background clearance requirements have been outlined in terms of provider flow.		
	22 VAC 15-050-60			
	22 VAC 15-050-70			
Part I. Introduction.				
Title	See Chart COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051			
22 VAC 15-051-10 Definitions	See Chart COMPARISION REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051			

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-051-20 Licensed child day center systems		<p>Added licensed child day center systems. The regulations for systems are promulgated by the Child Day Care Council and the State Board.</p> <p>This states that Chapter 051 regulates the licensed child day center systems.</p> <p>Currently no licensed child day center systems exist.</p>	Explaining that this regulation is for licensed child day center systems.	None
22 VAC 15-051-30 Barrier crimes specified by § 63.1-198.1 of the <i>Code of Virginia</i>	Previously this was just listed in the definition	Expansion of barrier crimes was so extensive and it was clearer to list the crimes in a separate section.	Providing a list of barrier crimes and complying with the expansion of convictions mandated by the 1998 <i>Code</i> changes.	None
Part II. Background Clearances At Initial Application For Licensure				

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-051-40		Section Added.	Clarifying what is needed at initial application for all background clearances. The section lists persons requiring background clearances.	None
		22 VAC 15-051-40 A Lists person affected at initial licensure.	Easily identifies if a person is affected at initial licensure.	None
		22 VAC 15-051-40 B Added that the center shall inform the person that background clearances are being done.	Person being screened will know that a criminal record check is being done. The person may not know that a criminal history has been requested, as the person is not required to sign the request form.	None
		22 VAC 15-051-40 C Added that the center shall not be penalized if the center has submitted the criminal history request report within seven days of person being employed or volunteering.	Preventing centers from being penalized if they have requested clearances. Background clearances are not always being processed by the state within 21 days.	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>22 VAC 15-051-40 D</p> <p>Added that persons who have background clearances by the child day center are not required to obtain new clearances when the initial application is due to a change in site location, the entity opens a new site, ownership or sponsorship changes or the licensing of a religious exempt center.</p>	Reducing costs when a background clearance has already been obtained.	None
		22 VAC 15-051-40 E was covered in repealed chapter 050.	None	None
Part III. Background Clearances After Initial Licensure.				
22 VAC 15-051-50		<p>Section added</p> <p>Central registry report added to 22 VAC 15-051-50.</p>	<p>Clarifying to providers what they need to do at initial application for all background clearances.</p> <p>Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.</p>	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>22 VAC 15-051-50 A and B Lists when background clearances needed. Same as required in repealed Chapter 050, except for officers and board members changed from 21 days to obtain the criminal record report when the board member assumes the position to prior to serving in position.</p> <p>References qualifier of (i) alone with, in control of, or supervising one or more children or (ii) involved in the day to day operations of a center for employees, contract employees and officers and board members. See 22 VAC 15-051-40 A</p>	<p>Complying with § 63.1-198, which requires background clearances prior to a person's assuming board duties.</p> <p>See attachment on Defining Employee and Contract Employee and officer of the board definition in matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051.</p>	<p>None</p> <p>See attachment on Defining Employee and Contract Employee and officer of the board definition in matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051.</p>

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>22 VAC 15-051-50 C Background clearances for contract employees or temporary staff.</p> <p>See Comparison of Repealed 050 to New Proposed Chapter 051 Part III Validity of reports 22 VAC 15-050-50A Exception.</p>	<p>See matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051, Part III Validity of reports 22 VAC 15-050-50 A Exception</p>	<p>See matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051, Part III Validity of reports 22 VAC 15-050-50A Exception.</p>
		<p>22 VAC 15-051-50 D If the person or persons designated as the applicant or licensee, the center shall obtain background clearances on the new designated person or persons.</p> <p>Repealed Chapter 050 covered this.</p>	<p>Clearly stating that this is required.</p>	<p>None</p>

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		22 VAC 15-051-50 E Added that the center shall not be penalized if the center has submitted the criminal history request report within seven days of person being employed or volunteering.	Preventing the centers from being penalized if they have requested clearances. Background clearances are not always being processed by the state within 21 days.	None
		22 VAC 15-051-50 F Added that the center or department shall inform the person that background clearances are being done.	Person being screened knows that a criminal record check is being done. The person may not know that a criminal history has been requested, as the person is not required to sign the request form.	None
Part IV. Consequences Associated With Background Clearances.				
22 VAC 15-051-60 Consequences associated with background clearances		Section added	Providing clearly stated consequences of disqualifying backgrounds including founded complaints as required by 1998 <i>Code</i> changes.	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>22 VAC 15-051-60A No center shall permit a person listed in Part II, 22 VAC 15-051-40, to assume or maintain his duties with the center if the center has knowledge that the person has a disqualifying background.</p> <p>This was included in 22 VAC-050-10 but not clearly stated.</p>	Clearly stating that a person can not assume or maintain his duties with the center if the center has knowledge that the person has a disqualifying background.	None
		<p>22 VAC 15-051-60 B Department may deny a license or impose sanctions if the center fails to comply with terms of this chapter.</p>	Meeting requirements of <i>Code</i> §§ 63.1-198 and 63.1-198.1.1.	None
		<p>22 VAC 15-051-60 C The center or department shall provide a person with information appearing on the background clearance if the person is denied approval or employment.</p>	Meeting requirements of <i>Code</i> § 63.1-198.1.1.	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		22 VAC 15-051-60 D If the Department becomes aware that a person listed in Part II, 22 VAC 15-051-50 has a disqualifying background; the department shall be permitted to release this information to the centers, which have a legitimate interest.	The centers becoming aware that a person has a disqualifying background and then taking the required action to terminate this person and protect children.	None
PART V. Verifying Background Clearances.				
22-VAC-051-70		Section added	Clarifying what the center must do to verify reports; includes requirements for central registry reports mandated the 1998 <i>Code</i> changes.	None
		22-VAC-051-70 A Criteria for valid background clearances.	Providing information on valid background clearances and in compliance with <i>Code</i> .	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		22-VAC-051-70 B & C Acceptance of background clearance that is dated 90 days or prior.	See 22 VAC 15-050-40 F matrix on Changes from repealed Chapter 050	See 22 VAC 15-050-40 F matrix on Changes from repealed Chapter 050
		22 VAC-051-70 D Background clearances kept confidential was in 22 VAC 15-050 F and has been expanded to include central registry report.	Complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports.	None
		22-VAC-051-70 E Center's designee review background clearances and department reviews background clearances for applicants for licensure and licensee.	See 22 VAC 15-050-50 B in matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051.	See 22 VAC 15-050-50 B in matrix on REPEALED CHAPTER 050 TO NEW PROPOSED CHAPTER 051.
Part VI. Duration of background clearances.				

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-051-80		Section added	Clarifying for centers how long background clearances are valid and complying with 1998 <i>Code</i> changes mandating child abuse and neglect central registry reports and sworn disclosure statement.	None
		22 VAC 15-051-80A Allows a person that leaves a center and the criminal record report or central registry report is 90 days old or less, the person may take the report or reports with him.	The new center not having to incur the cost of obtaining new clearances when there is still a valid clearance (one that is within the last 90 days) or if the person goes to another center.	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		22 VAC 15-051-80 B Change the period for a leave of absence to be increased from 6 months to 12 months before new background clearances are needed. Expanded absence to include termination of employment.	Eliminating the cost of having to get clearances on employees/volunteers that are on a leave of absence. This will aid centers such as Parks and Recreation and summer programs that employ students. The Child Day-Care Council committee recommended this.	None
		22 VAC 15-051-80 C No additional background clearances when board members change was already in Chapter 050, 22-VAC 15-050-70 B.	N/A	N/A
Part VII. Maintenance of background clearances.				

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-051-90 Maintenance of background clearances.		Section added Requirements 22 VAC 15-051-90 A, B, D and E are consistent with maintaining requirements for criminal record report in repealed Chapter 050. Added maintenance of central registry checks and sworn disclosure statement.	Providing consistency for maintenance of all background clearances and including 1998 mandated child abuse and neglect central registry reports and sworn disclosure statements.	None

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
		<p>Added 22 VAC 15-051-90 C If a center is not a primary work place for a person, the center shall maintain at a designated location the following:</p> <ol style="list-style-type: none"> 1. A copy of the central registry report, 2. An original sworn disclosure statement, and 3. A copy of the original criminal record report with a statement that the center designee has viewed and verified the original. 	<p>Eliminating the cost to the center or individual of having to obtain duplicative criminal record reports.</p> <p>Eliminate the cost of centers having to get duplicate criminal record reports and central registry reports when a person is working for more than one center at the same time.</p>	None
PART VIII. The Waiver.				

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ADDITIONS TO CHAPTER 051 NOT IN REPEALED CHAPTER 050				
Proposed CHAPTER 051	Repealed Chapter 050	CHANGE	Advantage to public and state staff by	Disadvantage to public and state staff by
22 VAC 15-051-100.		Section added. References that licensed child day centers and licensed child day center systems can participate in the waiver process as defined in the Minimum Standards for Background Clearances for Child Welfare Agencies, 22 VAC 40-191-10 et seq.	Complying with § 63.1-198.4 of the <i>Code of Virginia</i> which mandated the waiver by the 1998 <i>Code</i> changes.	Having to refer to a different regulation for the Waiver process.