**Section 385.40 Authorization for Background Checks**

a) Persons Required to Authorize Background Checks

1) All providers (including non-licensed service providers, contractors, child care staff, and volunteers) are required to authorize background checks (as defined in Section 385.20) and shall authorize those checks as a condition of employment. Documentation shall be provided at the time of initial application for licensure and at the time of license renewal.

2) Each owner of a child care facility must certify, under penalty of perjury on forms prescribed by the Department, *that he or she is* current or *not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])

b) Contents of Authorization

The authorization required by this Section shall be on forms prescribed by the Department and shall include:

1) identifying information consisting of name, address, Social Security number, date of birth, height, weight, hair and eye color, previous names and addresses;

2) a certification under penalty of perjury identifying any prior criminal convictions other than a minor traffic violation, as defined by this Part, and of any pending criminal charges;

3) authorization for the Department to release the results of the background check to the governing body or employer or, in the case of a group home or a child care facility operating in a family home, to the supervising agency for the child care facility; and

4) a disclaimer that the individual signing the authorization for background check has a right to make a written request for, and to receive a copy of, the background check results.

c) Employees Absent from Active Duty

For purposes of this Part only, employees who have been separated from a child care facility licensed by the Department for six months or longer (for reasons other than vacation, sabbatical leave, sick leave or maternity leave) shall no longer be considered current employees. Upon their return to active duty, the individuals shall be required to again authorize a background check pursuant to this Part.

d) Transfers Between Licensed Facilities

A facility that hires an employee who has cleared a full and complete background check, as defined in Section 385.20, at a facility licensed by the Department shall submit a new signed authorization of background check for the employee. An employee who has cleared a background check as described in this subsection does not need to be fingerprinted again unless the Department specifically requests new prints.

e) Operation of Seasonal Programs

A check of the CANTS/SACWIS, the Illinois and National Sex Offender Registries must be completed when child care facilities hire staff to operate seasonal programs and discharge or lay off the staff until the beginning of the next season, when the time period between the end of one seasonal program and the beginning of the next program is more than six months before the individual begins his or her duties for the next season.

f) Commingling Not Permitted

If a child care facility operates within the same building as other agencies or organizations or is part of a multi-function agency that offers services which are not subject to Department licensing, the child care facility shall develop a plan to limit access to children receiving care in the licensed facility by individuals who are not subject to the background check requirements of this Part. The plan shall be approved in writing by the governing body and the Department.

g) Conditional Employment

Individuals hired to begin employment who have authorized the background check required by this Part may be employed by a child care facility on a conditional basis pending the outcome of the required background check. The form authorizing such a background check shall be submitted to the Department.

h) Limitations on the Use of Conditional Employees

Conditional employees shall not be left alone with children outside the visual and auditory supervision of staff until they have cleared all required background checks.

(Source: Amended at 45 Ill. Reg. 12963, effective September 28, 2021)