Attachment 3.1.3
Overview of Background Checks

BACKGROUND CHECKS

Provisions of the Pennsylvania Child Protective Services Law (CPSL):

Any person seeking to operate a child care facility or to be employed at a child care facility in a position involving direct contact with children must submit the following information obtained within the preceding one year period:

- A Pennsylvania Child Abuse clearance obtained from the ChildLine and Abuse Registry at a cost of $10.
- A Pennsylvania State Police criminal history clearance obtained from the State Police at a cost of $10.
- An FBI criminal history clearance obtained from the Department of Pubic Welfare's contractor, Cogent. Fingerprints are required for the FBI clearance. The cost is $33.

The individual applicant is responsible for paying for clearances.

For persons seeking to operate a child care facility, clearances are required at initial application for a certificate of compliance or registration and must be less than one year old at the time of application.

For persons applying for employment in a child care facility, clearances are required at the time of the application for employment with the legal entity and must be less than one year old. An employee may be hired in a child care facility on a provisional basis pending receipt of the above clearances providing that the employee submits proof of application for the above clearances, signs a statement that says the employee is not disqualified from employment based on criminal or child abuse history and works in the immediate presence of a permanent employee at all times. Provisional hire is permitted for a 30-day period for Pennsylvania residents and for a 09-day period for out-of-state residents.

Family child care home operators are required to also submit the above clearances for each household member age 18 and older who lives in the family child care home at least 30 days a year.

The CPSL prohibits a person who meets any of the following from operating or working in a child care facility:

- Named as perpetrator of a founded report of child abuse or as an individual responsible for a founded report for a school employee as defined by the Child Protective Services Law.

- Convictions of any of the following crimes or the attempt, solicitation or conspiracy to commit any of the following crimes under Title 18 of the Pennsylvania Consolidated Statues or equivalent crimes in another state or under Federal law:
  - Chapter 25(relating to criminal homicide)

- Section 2702(relating to aggravated assault)
- Section 2709.1 (relating to stalking)
- Section 2901 (relating to kidnapping)
- Section 2902 (relating to unlawful restraint)
- Section 3121 (relating to rape)
- Section 3122.1 (relating to statutory sexual assault)
- Section 3123 (relating to involuntary deviate sexual intercourse)
- Section 3124.1 (relating to sexual assault)
- Section 3125 (relating to aggravated indecent assault)
- Section 3126 (relating to indecent assault)
- Section 3127 (relating to indecent exposure)
- Section 4302 (relating to incest)
- Section 4303 (relating to concealing death of child)
- Section 4304 (relating to endangering welfare of children)
- Section 4305 (relating to dealing in infant children)
- Section 5902(b) Felony (relating to prostitution and related offenses)
- Section 5903(c)(d) (relating to obscene and other sexual material and performances)
- Section 6301 (relating to corruption of minors)
- Section 6312 (relating to sexual abuse of children)
- Felony offense under Act 64-1972 (relating to the controlled substance, drug device and cosmetic act) committed within the past five years.

Department of Public Welfare Regulations:

The Department's regulations relating to the certification of child care facilities include additional provisions relating to persons convicted of crimes or named as perpetrators in child abuse reports:

- Regarding child care centers and group child care homes, the Department may deny, refuse to renew or revoke a certificate of compliance if a legal entity, owner, operator or staff person:
  - Has been convicted of a felony.
  - Or has been convicted of a crime involving child abuse, child neglect, moral turpitude or physical violence.
  - Is named in accordance with the CPSL as a perpetrator in an indicated or founded report of child abuse.

- Regarding family child care homes, the Department may deny, refuse to renew or revoke a certificate of registration to an operator if one or more of the following applies to an operator, staff person, volunteer or another person present at the facility while children are in care:
  - The person is convicted of a felony.
  - The person is convicted of a crime involving child abuse, child neglect, moral corruptness or physical violence.

- The person is named in accordance with the CPSL as a perpetrator in an indicated or founded report of child abuse.

Appeals:

If the Department denies, refuses to renew or revokes a certificate of compliance or registration based on the results of background checks, the applicant or legal entity has the right to appeal that decision. An appeal of a negative sanction relating to a certificate of compliance and registration is handled through the Department's administrative appeal procedure.