RESEARCH HIGHLIGHT

Barriers and Solutions to Implementing CCDBG Act Interstate Background Check Requirements

Key Highlights

- States experience various challenges in implementing the background check requirements of the 2014 CCDBG Act—especially for interstate background checks. Several states have not fully implemented these requirements due to such challenges.
- Some states have implemented their own solutions and suggest ideas for tools, resources, guidance, and policy change that would support continued implementation of these requirements.



This research highlight summarizes findings from the following report:

States' Status of and Identified Barriers to Implementation of the Child Care and Development Block Grant Act of 2014 Out-Of-State Background Check Requirements

The report summarizes two research activities: (1) a Synthesis and Review of available research and information on background checks and (2) an Environmental Scan of state CCDBG Act background check implementation, which included interviews and surveys with CCDF lead agencies and registry data custodians.

Overview

The 2014 Reauthorization of the Child Care and Development Block Grant (CCDBG) Act includes new background check requirements for child care and early education (CCEE) staff. A research study[1] found that these requirements—and particularly requirements to conduct interstate background checks—have been challenging to implement because they require new partnerships and infrastructures within and across states. Other complicating factors include checks not previously used for CCEE employment purposes, the large number of staff who must be checked, and the quick timing required to conduct checks.

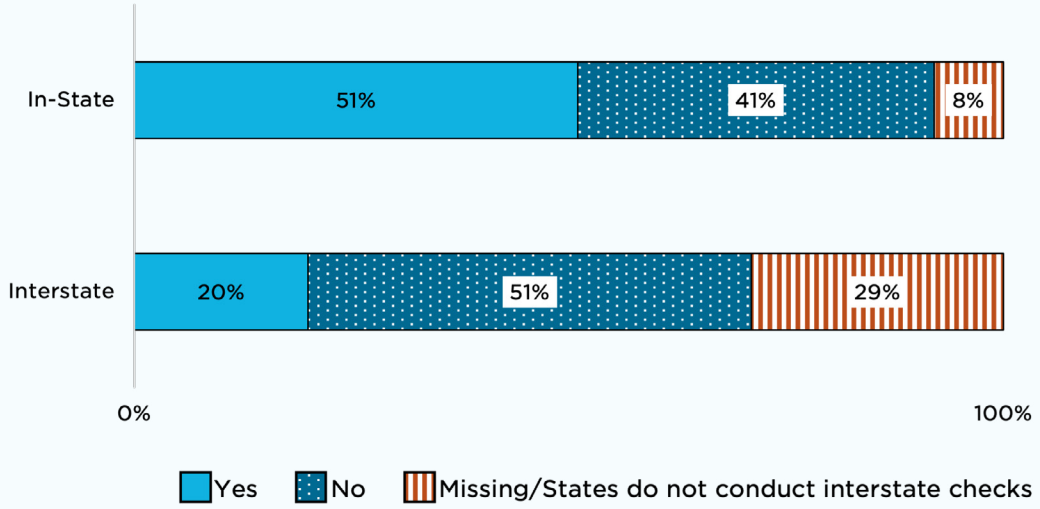
Under the CCDBG Act of 2014, background checks must be conducted for CCEE providers who are licensed, regulated, or registered under state law or who receive CCDF program funds.[a] In addition to federal and in-state checks, three different registries must be checked in all relevant states if a staff member lived in another state in the previous five years: state criminal history repository, state sex offender registry, and state child abuse and neglect registries. In 2019, only 20 percent of states reported completing 95 percent of background checks that had an interstate component within 45 days of the request (Figure 1).

[a] The requirements apply to anyone employed by a child care provider for compensation; contracted employees and self-employed individuals; any adult living in a family child care home; and anyone who cares for, supervises, or has unsupervised access to children in care.

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Figure 1. Do states complete over 95 percent of background checks within 45 days?



Note: Adapted from *"States' status of and identified barriers to implementation of the CCDBG Act of 2014 out-of-state background check requirements"*, B. Cunningham & N. Ravishankar, 2021, OPRE Report #2021-15, p.12. Copyright 2021 by Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. Adapted with permission.

What Barriers and Solutions Do States Identify for Interstate Background Checks?

States encounter several barriers to fully implementing the interstate background check requirements. Many states have implemented their own solutions or shared their ideas about potential solutions.

Legal restrictions

- ***Barrier:*** Many states have laws that restrict registry use and access, and the types of information that can be shared across state lines.
- ***Solutions:***
  - Work directly with legislatures on statutory changes or with constituents to prompt legislative change.
  - Work with data custodians to review and authorize responses to interstate requests instead of changing legislation for CCDF Lead Agencies to access the information directly.
  - Make fingerprint-based requests (which can obtain more criminal history information) instead of name-based requests to overcome legal restrictions on what information can be shared with interstate requestors.

Limited staff

- ***Barrier:*** Many states reported not having enough staff to conduct checks, review results, make eligibility determinations, and notify applicants—all within the required 45-day window.

- ***Solutions:***
  - Use cost and staff estimators or tools to understand the resources needed to support the volume of checks now required.
  - Build automated processes, such as automated searches in lieu of manual entry of information, to reduce the time burden for staff.
  - Incorporate automated recheck functionalities—for example, those in which CCEE providers can upload a list of their current employees to be regularly rechecked (as often as monthly) to identify individuals added to registries after hire.

Difficulties with payment of fees

- ***Barrier:*** There are often fees associated with interstate requests and incompatible payment processing systems.
- ***Solutions:***
  - Ask CCEE providers or applicants to pay the associated fees for background checks.
  - Broker arrangements with states to not charge fees for certain checks.

Poor data quality and incomplete records

- ***Barrier:*** Incomplete or inaccurate data represent a well-documented problem that causes delays and affects the ability of states to comply with the legislative requirements.
- ***Solutions:***
  - Ask applicants to provide missing information themselves.
  - Have the agency responsible for making the final decision investigate missing dispositions.

Lack of transparent state and registry processes

- ***Barrier:*** Differing state-level and registry-specific processes increase the burden for requesting and responding to states.
- ***Solutions:***
  - States cited the need for a regularly updated online database of state contacts for background checks that includes information on who can make a request, fees charged, required forms, what information can be shared, and terminology used.

Inconsisitent definitions and policies

- ***Barrier:*** States use different terms or definitions that hinder the interpretation of results.
- ***Solutions:***
  - States cited the need for a reference guide that includes every state's definition of substantiation in child abuse and neglect registries.

Non-response to interstate requests

- ***Barrier:*** When states do not respond to requests, it makes determining eligibility challenging.
- ***Solutions:***
  - Determine whether an applicant is eligible without the requested information within a specified period (typically 45 days).
  - Make a second request if a response is not received within a month and document the attempts.
  - Implement a 6-month provisional qualification status that marks the application eligible but prohibits the individual from being left unsupervised with children.

What Resources Are Available to Support Implementation of Interstate Background Checks?

New national resources and requirements have been developed in response to states' challenges with the interstate background check requirements of the CCDBG Act of 2014.



- The National Center on Subsidy Innovation and Accountability (NSCIA) technical assistance center supports CCDF lead agencies as they implement background check requirements. Since 2017, NSCIA has completed over 800 technical assistance deliverables to states, territories, and tribes in all regions, typically in the form of targeted technical assistance, national webinars and presentations, and on-site and virtual visits. The center's efforts include an ongoing Comprehensive Background Checks Targeted/Intensive Technical Assistance Project, which began in 2020. The project provides ongoing intensive supports to lead agencies, including process consultation and process mapping, peer-to-peer consultation, targeted technical assistance, monthly calls, and quarterly in-person site visits to CCDF lead agencies as they develop and execute strategies to improve their background check processes. Resources are available on NSCIA's website, including an online database with state contacts for background checks—the Interstate Child Care Background Check Contact List
- In 2020, the Office of Child Care (OCC) provided new clarification about CCDBG consumer education website regulations to ensure that CCDF state and territory lead agencies provide certain background check information on their consumer education websites (e.g., relevant state agency contact information, state-specific instructions, etc.) that is needed to initiate an interstate background check request. The goal of this revision to the consumer education website reporting requirement is to encourage the kind of transparency that allows states and territories to better exchange information to meet the interstate background check requirements of CCDBG. This is particularly important given the wide variation in state points of contact and requirements. OCC continues to post resources on its Criminal Background Check Requirement Resources page.

Background checks are an important safeguard to protect children from harm. As states implement these requirements, they should also recognize their potential to disproportionately affect CCEE providers of color and deter their participation in the subsidy system. This report by the Urban Institute reviews CCDF policies and practices, including background checks, to assess whether they address the inequities caused by structural racism:

Assessing Child Care Subsidies through an Equity Lens: A Review of Policies and Practices in the Child Care Development Fund

References

[1] Adams, G., & Pratt, E. (September 2021). *Assessing child care subsidies through an equity lens: A review of policies and practices in the Child Care and Development Fund*. Urban Institute. https://www.urban.org/research/publication/assessing-child-care-subsidies-through-equity-lens-review-policies-and-practices-child-care-and-development-fund

[2] Cunningham, B. & Ravishankar, N. (2021). *States' status of and identified barriers to implementation of the CCDBG Act of 2014 out-of-state background check requirements*, OPRE Report #2021-15, Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services. https://www.acf.hhs.gov/opre/report/states-status-and-identified-barriers-implementation-child-care-and-development-block

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