

441—110.11(234) Registration decision. The department shall issue Form 470-3498, Certificate of Registration, when an applicant meets all requirements for registration. Each local office of the department shall maintain a current list of registered child development homes as a referral service to the community.

110.11(1) Registration shall be denied or revoked if the department finds a hazard to the safety and well-being of a child and the provider cannot correct or refuses to correct the hazard, even though the hazard may not have been specifically listed under the health and safety rules. Registration may also be denied or revoked if the department determines that the provider has failed to comply with standards imposed by law and these rules.

110.11(2) Record of all denials or revocations of registration and the documentation of reasons for denying or revoking the registration shall be kept in an open file.

110.11(3) Record checks.

a. Applicability. The department shall conduct Iowa criminal history record and child abuse record checks for each registrant, substitute or staff member, anyone living in the home who is 14 years of age or older, and anyone having access to a child when the child is alone. The department shall conduct national criminal history record checks, based on fingerprints, for each registrant, substitute or staff member, anyone living in the home who is 18 years of age or older, and anyone 18 years of age or older having access to a child when the child is alone. In accordance with Iowa Code section 726.23, minors under the age of 18 will not be subject to the fingerprint requirement.

(1) The purpose of these record checks is to determine whether the person has committed a transgression that prohibits or limits the person's involvement with child care.

(2) The department may also conduct criminal history record and child abuse record checks in other states and may conduct dependent adult abuse, sex offender registry, and other public or civil offense record checks in Iowa or other states.

(3) Effective July 1, 2013, registration or renewal certificates shall not be issued until the results of all state and national record checks have been received and, when necessary, evaluated.

b. Authorization. The person subject to record checks shall complete the Iowa department of human services record check authorization form; Form DCI-45, Waiver Agreement; Form FD-258, Federal Fingerprint Card; and any other forms required by the department of public safety to authorize the release of records.

c. Iowa records checks. Checks and evaluations of Iowa child abuse and criminal history records shall be completed before the person's involvement with child care. Iowa records checks shall be repeated at a minimum of every two years and when the department or the registrant becomes aware of any possible transgressions. The department is responsible for the cost of conducting the Iowa records checks.

d. National criminal history record checks. Fingerprint-based checks of national criminal history records shall also be completed before a person's involvement with child care. This requirement shall be for an initial application for registration or a renewal application for registration. The national criminal history record check shall be repeated for each person subject to the check every four years and when the department or registrant becomes aware of any new transgressions committed by that person in another state. The department is responsible for the cost of conducting the national criminal history record check.

(1) The registrant is responsible for any costs associated with the taking (rolling) of fingerprints of all persons subject to record checks and for submitting the fingerprints to the department so that the national criminal history record check can be completed. Fingerprints may be taken (rolled) by law enforcement agencies or by agencies or companies that specialize in taking (rolling) fingerprints.

(2) The department shall provide fingerprints to the department of public safety no later than ten business days after receipt of the fingerprint cards. The department shall submit the fingerprints on forms or in a manner allowed by the department of public safety.

(3) The department may rely on the results of previously conducted national criminal history record checks when a person subject to a record check in one child development home or child care home submits a request for involvement with child care in another child development home or child care home,

so long as the person's national criminal history record check is within the allowable four-year time frame. All initial or new applications shall require a new national criminal history record check.

e. Mandatory prohibition. A person with any of the following convictions or founded abuse reports is prohibited from involvement with child care:

- (1) Founded child or dependent adult abuse that was determined to be sexual abuse.
- (2) A requirement to be listed on any state sex offender registry or the national sex offender registry.
- (3) Any of the following felony convictions:
 1. Child endangerment or neglect or abandonment of a dependent person.
 2. Domestic abuse.
 3. Crime against a child including, but not limited to, sexual exploitation of a minor.
 4. Forcible felony.
 5. Arson.
- (4) A record of a misdemeanor conviction of a crime against a child that constitutes one of the following offenses:
 1. Child abuse.
 2. Child endangerment.
 3. Sexual assault.
 4. Child pornography.
- (5) If a person subject to a record check refuses to consent to a record check, the person shall be prohibited from involvement with child care.
- (6) If a person has been convicted of a crime and makes what the person knows to be a false statement of material fact in connection with the conviction or record check, the person shall be prohibited from involvement with child care.

f. Mandatory time-limited prohibition.

- (1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:
 1. Conviction of a controlled substance offense .
 2. Founded abuse that was determined to be physical abuse.
- (2) After the five-year prohibition period (from the date of the conviction or the founded abuse report) as defined in subparagraph 110.11(3)"f"(1), the person may request the department to perform an evaluation under paragraph 110.11(3)"g" to determine whether prohibition of the person's involvement with child care continues to be warranted.

g. Evaluation required. For all other transgressions, and as requested under subparagraph 110.11(3)"f"(2), the department shall evaluate the transgression and make a decision about the person's involvement with child care.

(1) The person with the transgression shall complete and return the record check evaluation form within ten calendar days of the date on the form. The department shall use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and return this form within ten calendar days of the date on the form shall result in denial or revocation of the registration certificate.

(2) The department may use information from the department's case records in performing the evaluation.

- (3) In an evaluation, the department shall consider all of the following factors:
 1. The nature and seriousness of the transgression in relation to the position sought or held.
 2. The time elapsed since the commission of the transgression.
 3. The circumstances under which the transgression was committed.
 4. The degree of rehabilitation.
 5. The likelihood that the person will commit the transgression again.
 6. The number of transgressions committed by the person.
- (4) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and the person has no subsequent transgressions, an exemption from reevaluation of the latest record check is

authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the following conditions:

1. The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

2. Any restrictions placed on the person's employment by the department in the previous evaluation shall remain applicable in the person's subsequent employment.

3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides to the subsequent employer the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.

4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.

h. Evaluation decision. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements or corrective action plan.

(1) Within 30 calendar days of receipt of a completed record check evaluation, the department shall make a decision on the person's involvement with child care.

(2) Within 30 calendar days of receipt of a completed record check evaluation, the department shall mail to the person subject to an evaluation a record check decision that explains the decision reached regarding the evaluation of the transgression and a notice of decision: child care.

(3) The department shall issue a notice of decision: child care prohibiting involvement with child care when the person subject to an evaluation fails to complete the record check evaluation within the ten-calendar-day time frame.

(4) If the department determines, through the record check evaluation process, that the person's prohibition of involvement with child care is warranted, the person shall be prohibited from involvement with child care. The department may identify a period of time after which the person may request that another record check and evaluation be performed.

(5) The department may permit a person who is evaluated to maintain involvement with child care if the person complies with the department's conditions relating to the person's involvement with child care, which may include completion of additional training or an individually designed corrective action plan, or both. For an employee of a registrant, these conditional requirements shall be developed with the registrant. All conditions placed on a person's involvement with child care shall be communicated, in writing, to both the person subject to the evaluation and the registrant.

(6) The department shall reevaluate any transgressions where a state or federal law change requires different considerations of the transgression than had been previously applied.

i. Notice to parents of abuse in care. If there has been founded child abuse committed by an owner, director, or staff member of the child care facility or child care home, the department's administrator shall notify the parents, guardians, and legal custodians of each child for whom the facility or child care home provides care.

(1) The child care facility or child care home shall cooperate with the department in providing the names and addresses of the parent, guardian, or custodian of each child for whom the facility provides child care.

(2) This information shall be provided to the department within ten calendar days from the date of the initial request.

(3) Failure or refusal to provide the requested information may result in revocation of registration.

110.11(4) If the department has denied or revoked a registration because the provider has continually or repeatedly failed to operate in compliance with Iowa Code chapter 237A and this chapter, the person shall not own or operate a registered facility for a period of 12 months from the date of denial or revocation. The department shall not act on an application for registration submitted by the applicant or provider during the 12-month period. The applicant shall be prohibited from involvement with child care unless the department specifically permits the involvement.

110.11(5) Required notifications. If a certificate of registration is revoked, the administrator of the department shall notify the parent, guardian, or legal custodian of each child for whom the facility provides care. The provider shall cooperate with the department in providing the name and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

110.11(6) Required notifications to the department.

a. The provider shall, within ten days, notify the department of any of the following:

- (1) Changes in assistants or substitutes;
- (2) Changes in household membership;
- (3) Address changes; and
- (4) Criminal convictions.

b. No assistant, substitute, or coprovider shall be utilized in the care of children and no person shall be permitted to reside in the household until approved by the department.

c. If the provider does not notify the department of changes within ten days, the provider may be subject to revocation of registration or to recoupment of child care assistance provided, or both.

110.11(7) Letter of revocation. A letter received by an owner or operator of a child development home initiating action to deny or revoke the home's registration shall be conspicuously posted where it can be read by parents or any member of the public. The letter shall remain posted until resolution of the action to deny or revoke an owner's or operator's certificate of registration.

[ARC 2647C, IAB 8/3/16, effective 10/1/16; ARC 4114C, IAB 11/7/18, effective 1/1/19]